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POLITICAL SCIENCE QUARTERLY

THE REPARATIONS SETTLEMENT AND ECONOMIC PEACE IN EUROPE [1]

THE officers of the Academy have asked me to say a word as to the nature of the task achieved at Paris last year by the Committee of Experts on German reparations, working under the brilliant chairmanship of Mr. Owen D. Young, with Sir Josiah Stamp acting as one of its most important and effective members. It is interesting to note that the American visit of our guest of honor today, Sir Josiah Stamp, coincides with a final step being taken in settlement of the German reparations question, with which Sir Josiah has had much to do. That step is the mobilization and sale (in the form of a direct German Government bond), upon all the leading investment markets of the world, of certain of the German annuity payments. That is to say, this step is the first outward and visible sign that from now on the German payments are no longer in the political class but are in the process of being commercialized; are taking their proper place in the great mass of commercial transactions moving about the world of affairs.

Taking Reparations Out of Politics

It is natural and proper that the question of German reparations should be transferred for all time from politics to commerce. In fact, that was one of the main objectives of the experts' conference which sat for four long months at Paris

[1] Remarks of Mr. Thomas W. Lamont, in introducing Sir Josiah Stamp at a Luncheon given by the Academy of Political Science, at the Hotel Astor, New York City, on June 2, 1930.

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last year. The experts at that conference got away completely from the idea of assessing upon Germany anything in the nature of punitive damages for Germany's part in the war. On the contrary, those experts, under Mr. Young's leadership, sought to make a fair and final assessment of the European costs of the Great War. They sought to arrange, so far as lay within their power, an equitable and final readjustment of the financial burdens of the war as among France, Germany, Great Britain, Italy, Belgium and so on. To this end they naturally took into account the important question of comparative debt and taxation burdens among these countries. To those critics who wonder whether the experts did not lay an undue burden upon Germany, I beg to point out that the public debt of Great Britain today is approximately equivalent to 37 billion dollars; that of France to 13½ billion dollars, that of Germany (including all its reparation payments) under 11 billion dollars. Assuming for purposes of calculation that all Germany's annuity payments could be paid in a capital lump sum today to the creditor governments, even then Great Britain's debt would be reduced only from 37 to 35 billion dollars; France's from 13½ to 9 billion.

I mention these figures to give point to our belief that Germany's liability as now finally determined is not unduly burdensome upon her. To be sure her public debt will be external and that of the other countries that I have mentioned largely internal. In that way and to that extent the other countries are certainly in more advantageous position; because with them the question of exchange transfer is of much lesser importance. Even so, however, with normal conditions restored, Germany should encounter no very serious difficulty in meeting this newly arranged public debt.

Savings for Germany Under New Plan

As bearing upon this point I may recall to you that Germany's payments to the creditor powers for the last year of the Dawes Plan were approximately $590,000,000. Under the first year of the Young Plan, now officially designated as the New Plan, Germany's payments drop to approximately $400,-

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000,000, being one-third less. The saving to Germany under the first ten years of the New Plan, as contrasted with the Dawes Plan, is very great, in present value something like a billion dollars. The German budget will receive average relief in the next three years of 750,000,000 marks per annum, and in five years an aggregate of 3,400,000,000 marks.

Certain Charges Unfounded

A few months ago a congressman at Washington made two serious charges against a friendly state, namely the German Government. He charged first that Germany had gone beyond the law in accepting the obligations under the New Plan; and second that the late Herr Stresemann, one of the most enlightened of modern statesmen, whose untimely death France and the other creditor nations are still deploring, had declared that Germany would not fulfill her obligations under the New Plan. No more unfounded or unjust accusations than these directed against a friendly people could well be imagined. On the contrary, Germany has been most scrupulous in seeing to it that every step of her procedure of acceptance should conform to the law. First there was held a national referendum, initiated by a small group opposed to the acceptance of the New Plan. This was overwhelmingly defeated, only about 11% or 12% of the people voting for this measure. Next the Reichstag by a large majority, after long and thorough debate, voted decisively to adopt the Plan.

Herr Moldenhauer, the German Finance Minister, whose right to speak on this point is hardly questionable, has made the following verbatim statement concerning the legality of the proposed bonds: "McFadden's arguments do not affect the legal status of the loan. The loan rests on obligations clearly specified in the agreement which I shall sign. This obligates the present and all future German governments. Naturally we shall unconditionally fulfill these loan obligations."

Finally President von Hindenburg, sometimes called the Father of new Germany, approved the law in a message of great logic and power. In this connection it may be worth while to quote an extract from President von Hindenburg's message of approval:

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> After listening to proponents and opponents of the plan, after a careful weighing of the pros and cons, I have reached the conclusion that in spite of the heavy burdens the German people are called upon to bear for years to come and in spite of serious scruples which may be brought against many of its provisions, nevertheless in comparison to the Dawes Plan it marks a bettering of our economic lot and an advance along the road toward Germany's freedom and reconstruction.

As for the prediction attributed to Herr Stresemann, examination has failed to disclose record of any utterance of his even remotely supporting this congressman's accusation.

In fact, the greatest strength of the reparations settlement reached at Paris lies in Germany's voluntary acceptance of the obligations arranged under that settlement. One could almost say that not until 1929, ten years after the Paris Peace Conference which wrote the Versailles Treaty, did all the statesmen of the creditor governments fully realize that one could collect war damages only with the consent of the debtor nation; and Germany in turn realized that she had incurred a just debt which, with all internal supervision removed and her full liberty of action restored, she was desirous of voluntarily assuming and discharging.

Another Helpful Settlement

Another recommendation which the Young Committee experts made and which has been finally carried out through the actions of the governments at the second Hague Conference was the settlement of all the enormously confused questions of the so-called Eastern Reparations, that is to say, the reparations to be paid by the Succession States. Here was a whole mass of obligations that were known to be mostly uncollectible; and yet the mere thought of their legal existence hung like a cloud over all Eastern Europe. That cloud has now been dispelled. Austria, for instance, has been relieved of all further reparations burdens; the charges which Hungary must meet are deemed most reasonable, and the so-called Optants' question has received just settlement. The conflicting problems arising in the redistribution of Austria's pre-war indebtedness, all

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those problems that are causing ill feeling as among the states of Poland, Czechoslovakia, Austria, Hungary, Rumania, Yugoslavia and Italy, have been settled.

A great many stones have been thrown at the second Hague Conference, but considering the complexity of the various problems with which it had to deal, the conflicting interests, political and economic, among fifteen or twenty different states represented at The Hague, the degree of justice which characterized the final plan of settlement is quite extraordinary. Independent experts, it is true, made the framework of all these settlements, and without their skill and patience such settlements could not have been devised. But upon the politicians was laid the responsibility of having the settlements adopted by their various parliaments. And I think it is only fair to say a good word for the work of the politicians or statesmen in carrying through their parliaments these difficult solutions.

Economic Peace in Europe

It is because of the interest being shown in these questions by many Americans today that in my introduction to Sir Josiah I have ventured briefly to touch upon them. But what (with the permission of Mr. Young, who is a guest here today) I would wish most to emphasize in the work of the Young Committee is that it was designed to bring final settlement to the whole problem of German reparations, which for so many years following the war kept all Europe in a state of unrest and had unhappy economic repercussions even as far as America. Now at last the statesmen of Europe are justified in saying that strife, be it in the Ruhr or elsewhere, is ended; that the world may now look forward to an orderly and tranquil carrying out of the last of the great post-war operations for reconstruction. Those are the facts that give especial significance to the present situation.

The growth of mutual confidence in Europe since the first of those reconstructive efforts was undertaken in 1923 (namely, the rehabilitation of Austria) has been slow, but it has been sure. But the Stresemanns, the Briands, the Chamberlains and MacDonalds, — they have always known that the Locarno

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Treaty, the Kellogg Pact, the draft treaties of mutual assistance could never be deemed fully workable so long as there remained grave danger of economic disorder in Europe. That danger, through the beneficent mechanisms of the Dawes and Young Plans, supplemented by further important measures taken at the Hague and Baden-Baden conferences, has been ended. It is for that reason that American bankers, following the precedent which they had set for themselves in the previous operations for European reconstruction since the war, have taken the lead in this last step—which at the same time is the initial operation for the commercialization of reparations, under the mechanism set up by the Young Plan.

Final Step in Reconstruction

Just as the American investment public showed its wisdom five and a half years ago in materially assisting, through the Dawes Plan loan, to put Germany upon its feet, so now they are showing their readiness to coöperate in the new German loan, believing that their action will be another step in reaffirming Germany's credit; in the assistance given to America's foreign trade; in making concrete and effective the Locarno treaties; but most of all in the final liquidation of the war and in building firm foundation for the new epoch of economic and political peace in Europe.

THOMAS W. LAMONT

NEW YORK CITY

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FINANCIAL ASPECTS OF INTERNATIONAL RELATIONS[1]

WITHOUT our realizing the change that has taken place, certain aspects of international relations have recently come into prominence which are of financial origin. Quite different have been the causes that have divided men in past centuries. At one time religious differences were the main cause of political trouble. Then followed dynastic allegiances and alliances. Such alignments seem entirely out of date. Later came questions concerning the extension of the franchise to those elements in the community which should be allowed to participate in self-government. That, too, is a matter of history, a battle that has been won.

When we look at politics today, however, we find that at bottom practically all political questions are economic, and now we are coming to the point where we can perceive that most economic questions have to be handled, if we are to get to the root of them, by severe statistical methods.

I went some years ago into an embassy—you will readily identify it if I add that I have forgotten the country it was in, and I must not say the country it was for, and the time is unspecified—but anyway a member of the embassy looked up from his papers and said, in a rather despairing tone of voice, "This diplomacy business has all gone to the dogs. When I was trained for it, I thought I knew my job. I knew the history of these people and their politics and their balance of power and all that business. But now what do we have to do? We are given all this black magic of finance and economics and currency. Here I am asked to say whether I think this government is going to get hold of the currency successfully, or whether they will get thrown out in the process, because that will make a difference in their foreign relations. I really

[1] An address delivered at a Luncheon given by the Academy of Political Science to Sir Josiah Stamp and Lady Stamp, at the Hotel Astor, New York City, June 2, 1930.—ED.

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don't know the top from the bottom of the subject. I was never trained in this filthy science." He was quite petulant about it. But he did express a very great truth. He did bring out the point that the problems of international relations today are in their most difficult aspects mainly financial.

The other aspects are still with us, but very successful provision has been made for dealing with them on a large scale on an institutional or organizational basis. We have a World Court which is ready to handle problems and disputes about international law, boundaries and the like. We have the representatives of the nations meeting at Geneva regularly for common action and common discussion, and we are able to bring together quite quickly, as quickly at any rate as diplomatic action will allow, special conferences to deal with major problems like naval and military disarmament. So, most of the elements of difficulty in international relations have been provided for.

There is, however, at present no organization for dealing systematically and scientifically with the financial strains that come upon the world's economic social organism, and we have not even improvised one yet, except for something that I shall refer to at the end of my remarks. If these economic questions are to be dealt with in the same spirit, in the same way as the others, new qualities of thinking are wanted on the part of those who take part in international discussions, who regulate international relationships, and particularly those who interpret them through the press and otherwise to the people.

Have you reflected—I do not doubt you have—that in the history of every branch of knowledge, particularly in its process of becoming an exact science, there has come a crisis, a period when tremendous advances have been made, and when it has seemed worth while for all brilliant energies and superabundant wealth to be poured into one particular field in order to achieve great things in a short space of time? One can pick out the golden age, the real drive, in each of the different sciences like chemistry and physics, electricity and so on. Today is the day when of all times the drive is wanted in economics. We want to realize that we cannot have too

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many hard and brilliant thinkers in that field, too much money poured into research, and too much patient, self-denying effort to advance the science, for this reason: The advances along other lines of progress and invention and the like have been so enormous that the machine, the complication, has completely outgrown our old mechanism for thinking about it and handling it from the economic standpoint. You often hear it from the pulpit, and I have no doubt it is perfectly true, that we have made such immense advances in our control of nature and of material things and their production, that science has outrun moral progress, until man is not equal to the job of controlling what he himself has created.

However true this may be of the moral nature, I am quite certain that from the point of view of economic thinking it is absolutely true. Things have become so rapidly complicated, and differentiated to a degree that we never knew before, that the existing machine of economic thinking is neither fine enough nor does it embrace a wide enough range of people to tackle the job properly.

There is, however, an immense, but less obvious, difference between the problem confronting economic science, and the problem facing the other sciences. Chemistry, physics, and the like will make immense progress provided that you have great inventive genius making discoveries and launching them upon the world. It does not require any special effort to accommodate yourselves to the new discoveries, to assimilate them and to use them. You do that without becoming an expert in any way or adjusting your method of thought. You may have to accustom yourself to the speeding up of the motor (and the way in which we can accommodate ourselves within a generation is really marvelous), but this adjustment does not require any new intellectual equipment.

In the case of economics, progress has to have two wings before it can fly. First of all, an immense advance is wanted on the side of the inventor, the thinker, the man who reasons out the new solution. But he is absolutely powerless unless there is a general raising of the standard of appreciation of economic matters on the part of the multitude, unless there is

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a much higher degree of public appreciation of economic truth. The best inventions, the best schemes, can never work, except through the wills and the wishes and the powers of hundreds of thousands and even of millions of people. In no other way can new economic advances really achieve their object. There is therefore an immense distinction between economics and other fields of knowledge. It means, of course, that we have to have the power to subdue our prejudices and to realize that in the long run things may be different from their immediate aspects, either pleasurable or disagreeable.

Nothing has an uglier look to us than reason when it is not on our side. We all like to feel that we have right on our side, but we are always predisposed to think that the thing that is pleasant and immediately profitable is the thing that is right. We all of us go a long way in our prejudices before we drop them. I am not pretending, of course, that in economics any more than in anything else we can expect the world to be free from prejudice. We might just as well ask for the moon. All that we can ask is that we shall know how to handle people's prejudices and to have as few as possible ourselves.

Hazlitt, I think it was, said that no wise man can have a contempt for the prejudices of others and he should always stand in a certain awe of his own. The truth of the matter is that economists particularly are apt to think that the data of economic or financial science are really things and facts as they are. That is true; but equally, what people think about the facts, however wrong and however misguided, is very often to be included in economic data and is very often more important in the short run than the study of the things as they actually are. People will run just as fast from a dog, if they think it is a wolf, as they would if it were actually a wolf, and if people have a misconceived notion of economic facts, that is just as important in the data of economics as the facts themselves.

There is no field in which the facts are more difficult to realize, not from time to time and from moment to moment, when our attention is drawn to them, but all the time as part and parcel of the furniture of our minds. We can all see a

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fact when it is pointed out as a piece of analysis or theory at the moment, but to go into our office the next day and have it as part of the actual working mechanism of our minds is unusual even today.

The fact of the matter is, we tend to treat financial operations as though they were self-contained and independent, as though they were an end in themselves. That is partly due, of course, to the fact that men are in finance by itself, or they are in industry by itself, and do not necessarily connect up the two all through. When a man has completed a financial operation, the payment of a debt, the floating of a bond, whatever it may be, the thing is done so far as he is concerned. But that method of thinking, if we carry it into our politics and international relationships, will lead us very, very far astray, because in the last resort (and this I believe to be indubitably true) finance is only a mode of speech. It is only a method of moving goods and services and changing their ownership. It has no meaning whatever in itself. You can sign many pieces of paper and pass them over in exchange for other pieces of paper and make entries in ledgers, and that in itself means nothing. Behind it all is something physical; objects of human enjoyment and necessity are being moved or created, or their ownership is being changed.

If we reflect, therefore, that an apparently complete financial transaction is very often only the beginning of an intricate chain of economic consequences, then we shall realize that the financial aspects of international relations have an immense importance. We have only just begun to study them. We have to get behind the figures that are in the international ledgers, we have to consider the work that is behind them, the millions of men who are set in motion by the things that have been financially done.

Up until about twenty years ago, international finance could be likened to a kind of viscous fluid that moved according to the particular laws of comparative cost in the flux of goods and international trade. But something very important has happened in the last twenty years. In many respects rigidity has increased because of the construction of very deep channels

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of international finance in which we force large currents of trade to flow. On the other hand, accompanying this greater rigidity, there is a much greater fluidity. Forces act with much greater suddenness and thoroughness and are much more disconcerting than they were, in the field of finance, carrying with them all the while consequential elements in the real work and actions of men. That means, therefore, that all old thinking upon these subjects may just as well be scrapped. We have to rethink the thing from first principles. That is always difficult, particularly for second-rate minds that are in first-rate positions. It is singularly difficult for the practical man, especially if he is proud of being a practical man, because, as you know, the practical man is the man who practises the theories of thirty years ago. To most men, experience, as Coleridge says, is like the stern lights of a ship which illumine only the track it has passed.

We want, therefore, a new world of ideas. Now, "it is only the wise who possess ideas. The greater part of mankind are possessed by them." Every age has the advantages of what has gone before in material possessions. We wish that every age could start where the other left off in its moral attainments, but every age has to learn its Garden of Eden all over again. Every age has to have its own failings and learn the old lessons over and over again. Very often, too, in so far as economic thinking is based upon prejudice, every age has to do its own re-learning. I say this because there lies before us the duty of rather disagreeable hard thinking, and —what is more and worse than that—the subduing of a good deal of prejudice and preconception.

Now, what are the elements that I have referred to as making the whole question of international relations more difficult to consider along the old lines? The elements of rigidity? We have a number of fixed international obligations of a very extensive kind, not only extensive in time, therefore setting up a pretty permanent state of consequential economic effects, but also extensive in amount in relation to the resources of the countries affected. These fixed international obligations are the result of reparations, war debts and repayment of war

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debts. They are the result, also, of commercial loans made to foreign countries on a very large scale. Oh, but you say, there is nothing new in that! Great Britain was a great creditor country before the war. But, indeed, there is something very new about it. Between Great Britain in the nineteenth century, and the Dominions and America, there was the relationship between a relatively advanced industrial country and a developing country. They were in complementary stages. But today, vast commercial obligations are being made as between countries that are to a great extent on an equal industrial plane, that is to say, nations which are making the same kind of goods in the same way for the same kind of markets. Loans assume a completely new aspect when a country by its financial operations is immediately equipping another country to be competitive with it in the world's markets and not merely complementary. Nor is payment expected in classes of goods and materials which are quite different from those the lender produces.

These are new elements, and they force large currents of foreign trade, of work, and of capital into particular channels, very deep and very permanent.

I said, however, that there was greater fluidity. Finance was formerly viscous. It did not move quickly or sensitively. Now it is extremely sensitive and fluid. There is today available on the desk of every business man an international knowledge of stock markets, that would never have been dreamed of before the war. Time was when the Yorkshire textile woolen manufacturer, having made so much in profits during the year, thought of nothing but turning it back into his business or perhaps putting it into some neighboring enterprise. Today he has on his desk a list of stocks in New York, in Paris, in Berlin, and estimates and all kinds of analyses of these stocks by experts, so that he is able to appreciate that the yield in one country is greater than the yield in some other place; and what money he has left after paying his taxes can more quickly and does more quickly, by these agencies, find its way into the market which can give the biggest return.

There is, too, a process of economic attraction or valuation

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entirely different from any that existed before. In the old days, a man would invest money in a concern or a stock according to what he imagined was the capital value of the dividends received, and he would compare that with some other dividend; but after a while he got beyond that stage. He looked not at the dividend but at the earnings, and today in your papers one finds the earnings regularly quoted per share as a matter of course. That was not so in the old days. Men knew little about earnings and cared less, but today a man would not buy on dividends, he would buy on earnings.

Then the third stage was reached when the prospective investor, with such financial omniscience as was granted to him by an unrelenting Providence, looked not at the valuation or earnings today, but at the valuation or earnings as they might be in years to come.

Then came a fourth stage, and a very important one, which you had considerable knowledge of in New York last year. The third stage was where the investor bought the stock because he thought that satisfactory earnings would accrue to him in due course if he held the stock up to a certain time. He was prepared to hold it until then. Now, however, has come a form of valuation which is based not on the expectation of holding stock over a long period, but on a much more poker-playing kind of valuation in which nobody supposes anybody is going to hold for that time. It is only a question of who can clear out at the right moment with the largest profit. I am not saying this in jest; it is an absolute psychological fact, that economists must take into account. In a developing country, if this particular psychology is very prominent, it has the effect of creating a tremendous magnet or market for quick and ready money all over the world. Consequently international relations are complicated by the flow of funds to the markets which at particular times exhibit this particular attraction to the greatest extent.

A third fluid factor is the fact that there are large short money markets in the world, not many indeed, but extremely sensitive to competing money rates. These money rates, swinging large masses of short money back and forth, would

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not affect the body politic or economic very much, if their effects would stop there. But their effects do not stop there, because, under the gold standard which obtains throughout most of the civilized world, these oscillations entail, for the protection of the particular countries affected, certain definite acts, which very often incommode a country, or make it feel irked by something that has happened elsewhere.

The bank rate is put up in London. Some short money in New York is called back. The next thing I hear is that a New York stock broker has been shaking his fist in the face of a Britisher and telling him that all the New York trouble is due to London. Or money begins to vanish from London and go to Paris, and at once people look around for political reasons, and all kinds of allegations and recriminations are at once put forward, and very often supported, by interested parties, and they may indeed on occasion be true.

Here you have indeed new and quite fruitful sources of difficulty in international relations. They involve these questions of gold and its influence on the international situation, but all of these things, by and large, sooner or later bring with them effects upon the trade movement of the countries concerned. They all of them are interwoven and interwined in a most inextricable way.

I do not just remember the exact allusion, but most of you who have read Darwin's *Origin of Species* will recollect his rather entertaining statement, I think it was, that the prevalence of a certain kind of clover in a certain locality was due to the number of maiden ladies who lived there. The proof was very obvious. The existence of this clover depended upon a certain type of field mice, and these field mice depended for their lives upon the presence of a large or small number of cats, and the presence of a large or small number of cats depended upon the number of maiden ladies that would keep them.

I rather astonished a British audience the other day by trying that chain of reasoning on them. I said, "The more rich people there are in America, the higher will your taxes in Great Britain be." They looked at me in astonishment, and

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then I gave them the Q.E.D. of it in this way: first, that the more rich men there are in America, the more will be attracted to this particular type of speculation that New York enjoys, the holding of stocks with very low current yields for future enhancement of value, which only men with resources and money can do; and secondly, as that creates a situation which attracts a great deal of short money, people in England see a certain amount of profit to be made either in speculating themselves or else in supplying the call money with which it can be done, and that has the effect of draining London of a good deal of its liquid resources; and thirdly London in self-protection, under the gold standard, puts up the bank rate; but, fourthly, the putting up of the bank rate, more or less according to circumstances, has a restrictive influence on British trade. People are not as enterprising as they might be, there is not as much extension of business, there is more unemployment. Fifthly, when there is more unemployment, the cost of the unemployment insurance, or "dole", as you know it, goes up. Finally, when that goes up, then of course taxation goes up, and there you are! There is probably a flaw in my argument, but I don't see it, and I know you can't!

Well, the old type of politician—and when I say that I include a great many men who are in power today—is not in the habit of thinking of financial transactions as having inevitable economic consequences in trade and business activity. He has no conception of anything else but the actual figures that are used in settlements. The fact that there are all kinds of varying things behind those figures is almost lost to him.

For instance, I was reading only last week, coming over here, the final outburst of that fierce and lambent spirit, Clemenceau—a very noble book in many ways, but exhibiting in a very marked degree the particular trait that I have in mind. Speaking of the damage that was done to the treaty, Clemenceau says, "France will only have recovered 133 milliards of francs out of 915 milliards the war cost her. The Young Plan gives France 18 milliard 737 million of gold marks, which, added to the amounts received so far, would mean total receipts for France of about 22 milliards of gold

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marks." Then he says, in a burst of bitterness, "From 136 down to 22, or one-sixth of the agreed amount!"

Clemenceau never realized right until the day of his death the differences in the real values represented by these marks and francs that he is talking about, never looked at the vast changes in what is meant in human effort by a gold mark or by a franc, in what is represented by that expenditure of 915 milliard francs and what is represented by the repayments.

The truth of the matter is that the more you talk in fixed terms of money, the more you are concealing the fluctuating total of human effort that lies behind, and these late months have shown us that every month the position of debtors of all kinds has become more and more onerous, and the position of those who have borrowed on debentures and the like more difficult.

We are to some extent ruled by a measure which is more capricious than any human mind, be it male or female, and there is no kind of business skill which can derive a profit from prognostication bearing upon this subject. It is capricious beyond the mind and the will of man.

The relations between countries now, in their financial aspects, deal with the interest on debts; with the surplus we have available for investment abroad and the control of that surplus, or the leaving of it to chance; with tariff walls and the possibilities of recrimination and retaliation and even of suicide; with questions of double taxation which act like a tariff against the free flow of capital, and the elimination of double taxation which often calls for very farsighted and statesmanlike renunciation on the part of individual treasuries and budgets of debtor and creditor countries; with the short money peril with all the political allegations that may attach to it. All these things are important, and they all require study if we are to get international relations upon the new basis for which I ask.

Necessary for that object are, I imagine, four things. The first is some recognized institution or clearing house of thinking through which these things can be tackled. I am, I hope, not foolish in believing—at any rate I think I have the support

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of my colleagues right and left in my belief—that the Bank for International Settlements is the beginning of an institution which can develop into that kind of international brain for a more coördinated and thought-out control of these vast and hitherto capricious forces.

The second thing—and this is where this Academy comes in—is the need for two classes of workers, first, those who create solutions, the hard, analytical thinkers, the economists, the men in finance and business; and second, the larger educated public who will not create solutions but will create a demand for them, together with the will to put them into force and not to obstruct them. A novel solution must not be condemned merely because it is a new thing. The public must realize the peril, and therefore, I will not say, snatch at any straw, but try any reasonable expedient and experiment that is put before them.

In this respect we want a greater harmony between the executives and the detached thinkers. I know how annoying it is to be sitting at the head of a business doing your job and realizing that you cannot get straight at the goal. You have to go sometimes a step or two backwards owing to the condition of your business or the times or the prejudices and characters of those with whom you work. The detached thinker, whether professor or not—he may be a journalist—says, "Why doesn't this executive get on with this principle? He understands it. He seems very slow about it." That kind of thinking about each other, that kind of criticism, does not make for the best, most harmonious results.

I think it was Sir John Lubbock, a great Englishman of the Victorian era, who was a very prominent banker of his day and also a great student of scientific subjects, who used to be known in banking circles as "that great scientist," but was referred to in scientific circles as "that wonderful banker." When I am sitting with my financial colleagues they always look suspiciously at me and refer to "the academic pundits" as if I were one of them. When I am sitting with my "academic pundit" friends, they always refer to "you business men". As a result I am perhaps a little sensitive on both sides.

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What we want are the doers and the informers, the people who will cut coal at the face and the people who will carry it where it is wanted behind, and I appeal to this Academy to produce both kinds.

Remember that this job requires not only self-renunciation but great patience. In any attempt to work through men's prejudices, for the ten per cent of the time that is needed to arrive at the right solution, ninety per cent is required to negotiate and coax people to accept it.

The third thing that we want is to put the cost of this kind of research—which is so important to business and without which business can never be regulated on a really scientific and humane basis—upon business. It should not be supported merely by the energies and the pockets of a few theorists. It is a matter which so vitally affects business that business ought to see that the job is being properly tackled by properly accredited people, and that, for the effort put in, something is shown in the way of results. Otherwise it will drag on, and if we get a twenty-five per cent fall in the price level in the next five years in Great Britain or elsewhere, as we have had in the past five, you can say " goodbye " to Young Plans, Dawes Plans, and anything of that kind. It will upset all the contractual relations of the whole world.

And the fourth thing is to demilitarize finance. International finance is so full of military terms of retaliation and aggression, that if we are to think of it on a scientific basis and to do justice with it in the cold light of the study, we must at any rate take such terms out of it, because the feelings of men are so often energized by the terms they use. They talk warlike terms and begin to feel warlike. Let us get these military terms out of the whole vocabulary, and then we can have a dispassionate study.

We have a custom in England of having a report returned each term from the school on the progress of the students in the particular subjects during the term. It is always a day of keen anticipation for both the pupil and his parents when this report arrives home during the holidays. Our little fellow, ten years of age, had a report from school in which a

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discerning teacher wrote against one of the subjects, "Does as little homework as he can and hopes for the best!" If over the field of international finance we were to write that report, I think we should about get the truth. We expect to blunder into the truth without doing the hard apprenticeship of thinking and experimentation that it really demands. That is the task of the Academy.

My concluding word is this: One of your own wise men, Santayana, said, "Nothing requires a rarer intellectual heroism than willingness to see one's equation written out." Now, if it requires heroism on the part of an individual, it certainly requires super-courage on the part of a nation. The Anglo-Saxon nations, the English-speaking nations, have never been without that courage. May they show it in this very trying day!

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PARETO AND PANTALEONI: PERSONAL REMINISCENCES OF TWO ITALIAN ECONOMISTS

THE last decade has witnessed the passing away of an unusual number of distinguished economists. Among these are two Italian thinkers with whom I happened to have rather intimate personal relations, and who died at almost the same time. It may be of interest if I venture here to jot down some random observations on Pareto and Pantaleoni, who contributed so masterfully to Italy's international standing in economics but who have not thus far made as deep an impression on American scholars as they deserved.

Vilfredo Pareto was born in Paris in 1848. He belonged to an old Genoese family which had been compelled to emigrate because of its connections with Mazzini. The unification of Italy made it possible, however, for young Pareto to return to his native country and to study at Turin. Being much interested in mathematics, he prepared himself for the engineering career and became the manager of the Val de Arno railway. But from the beginning he was also interested in philosophy and his attention was soon called to the economic problems of the day. As early as 1876 he began to write on economics and soon turned his attention from practice to theory. As a result of his growing reputation in mathematical economics he was called to the University of Lausanne in Switzerland in 1893 to succeed Walras.

He devoted the next few years to intensive work in economic theory. His *Cours d'économie politique,* published in French, at once made a deep impression. It contained among other notable contributions the first formulation of the principle which subsequently became known as Pareto's law. This was a generalization which attempted to express the relation between the amount of income and the number of its recipients. It has given rise to much controversy in economic and statistical science in the United States as well as abroad. Although

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Pareto devoted so much attention to the mathematical side of economics, his training as an engineer and his acquaintance with the facts of everyday life prevented him from writing a purely abstract work. In fact the book displays a wealth of statistical and historical information.

A decade later he carried his researches still further and in 1906 issued his *Manuale di Economia Politica,* which was soon translated into French. He now became interested in the wider aspects of economics and soon published an interesting two-volume work entitled *Les Systèmes socialistes* containing a generous but critical appreciation of radical reform schemes. As a result of these investigations, he decided to devote the rest of his life to a study of the underlying causes of social action in general. After a decade's arduous labor he published his *Tratatto di Sociologia Generale,* quickly translated into French and soon to appear in an English dress. This was a remarkable and original piece of work.

Inasmuch as it is absurd to try to compress a work of 1,700 pages into a few sentences, I shall content myself with just a word as to the real meaning of Pareto's sociology. Attempting to do for sociology what he had already done for economics, Pareto divides the subject matter of social action into two parts—the primary or fundamental and the accidental. The latter he calls the derivative part of social life and thinking, or the derivations; the former he terms the residue. The residue or fundamental part consists of six components: the instinct of combination, the persistence of aggregates, the manifestation by external acts, the social ideas, the integrity of the individual and the sexual instinct. On the other hand the derivations, largely false and leading to social myths, consist of affirmation, recourse to doubtful authority, or to indemonstrable assumptions, and verbal illusions.

Studying the facts of social evolution, Pareto finds them to be governed by four elements: economic interests, the psychological residues, the ideological derivations and finally what he calls the circulation of the élite, based on social classes. The result of all this is the existence of social cycles which explain the sweep of history.

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I had the pleasure of first meeting Pareto while he was still principally interested in economic theory; and again, shortly before his death while I was serving on the Economic Committee of the League of Nations in Geneva. His residence was in a little suburb of Lausanne, where I had the opportunity of having most interesting talks with him.

Pareto, like all the great men that I have met, was modest in the extreme, but held, nevertheless, quite firmly to a belief that he was really making some contribution. Although at the time he was thinking mainly along sociological lines, he was still very much interested in economic problems and disclosed an intimate acquaintance with the progress of economics, not least of all in the United States. In one respect he was quite like his illustrious colleague, Alfred Marshall. When I had the privilege many years ago of living in Marshall's house and talking quite intimately and unreservedly about the doctrines of the various schools, I found that in private conversations he was quite ready to express, in a far more vigorous way than in his published writings, his dissent from a number of contemporaries. Very much the same is true of Pareto, who did not hesitate to speak out his mind very frankly as to the shortcomings of famous and distinguished economists, both living and dead, both at home and abroad. It is, of course, out of the question to quote any of his statements here and the few references that we find in his published works to contemporary economists are always guarded and polite. I have sometimes wondered whether it really would not conduce to the progress of science if distinguished thinkers were to give to the public the best fruits of their considerations on the methods and conclusions of their contemporaries. There is, I feel, entirely too much reticence on these points, due to a variety of reasons.

In the meantime Pareto had been widely appreciated at home as well as abroad. Pantaleoni had for many years been emphasizing the remarkable work accomplished by his friend, who was about ten years his senior. What brought and kept them together was their distrust of socialism as a practical program; and that also explains why they both became firm

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upholders of Mussolini's program. In fact, the Fascists now pointed out that they found in some of Pareto's teachings a firm foundation for their own political philosophy. Pareto was accordingly made a Senator of Italy, but he had become so much interested in working out the implications of his general philosophical sociology that he preferred to stand aloof from practical politics. When he died, in 1923, his reputation was secure and his fame was widespread. Altogether he is one of the few European sociologists who have produced a deep impression upon American students.

Pareto's life-long friend Maffeo Pantaleoni was of a quite different nature. I met him first while he was a young man in the thirties, when I was spending a sabbatical year in Rome. I then contracted for him a deep and intimate friendship which lasted unbroken until his death. Scarcely a year passed without his sending me long letters full of the most interesting passages as to matters both personal and scientific.

Pantaleoni was born in 1857, the son of a physician who took an active part in Italian unification. His mother was English and he was educated in Germany, with the result that he spoke four languages—Italian, French, English and German—with complete fluency and with a rare mastery of the niceties of expression. Largely influenced by his German education and thoroughly acquainted with the Austrian school of economists, whom he was perhaps the first to make known in his country, Pantaleoni became a professor of economics at Camerino at the age of twenty-five. His youthful work on the shifting of taxation (*Teoria de la Traslazione delle Tributi*) appeared in 1882 and was, for so young a man, a veritable masterpiece. A few years' further reflection led him, however, to complete what is his most profound theoretical contribution, *Principi di Economia Pura,* which was translated into English about a decade later and which presents a splendid illustration of the work of the marginal school of economics.

It was shortly after these books appeared that I made the acquaintance of Pantaleoni. His mother was still living, and on every Saturday evening held what was at that time perhaps the most distinguished salon in Rome. One was always sure

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of meeting there all the notables, both Italian and foreign, who happened to be in town; and Maffeo, ably seconded by some other members of his family, was always the center of a brilliant discussion. It was during that year that I learned to appreciate his remarkable mind and his sterling and upright character. Largely because of his refusal to bend the knee to the demands of the politicians, Pantaleoni was compelled to do his academic work at the little town of Bari.

It was not long, however, before his grasp of practical affairs and his powers of keen analysis led him to undertake a series of brilliant monographs on many different phases of economic life. These works attracted universal attention and procured for him a professorship first at Naples and finally at Rome. In 1900 he was elected to the Italian parliament and thereafter divided his time almost equally between economics and politics.

When the Great War broke out, his soul was stirred to the depths. He had been for many years the great champion of German science and had done his share in bringing about the infiltration into Italy of German capital. It was with dismay and regret, but none the less with characteristic vigor, that he now took up the cudgels in behalf of his native country. In one of his letters to me he referred to his lifelong admiration for everything German and said, "I now rub my eyes and ask: Have I been a fool all along or have we changed; and if so, who is it that has changed, they or I". From week to week there poured out a wealth of articles on every phase of the war which compelled universal attention. In fact so ardent and enthusiastic a spirit as that of Pantaleoni could with difficulty remain within the bounds of moderation; and when D'Annunzio undertook his famous campaign for Fiume, Pantaleoni came to his support by acting as treasurer of the little government. He told me many an interesting tale as to the shifts to which he was occasionally reduced in order to make both ends meet in that memorable episode. Finally, when Mussolini came to the fore, Pantaleoni recognized the possibilities of the situation and, implacably opposed as he always was to anything that savored of socialism or communism, put his great genius at the disposal of the new government. He died in 1924 in the plenitude of his powers.

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The more important studies of Pantaleoni before the war were published in three volumes under the name *Scritti Vari di Economia.* A similar collection of his war and post-war studies was also in process of publication under the title of *Erotemi,* of which, however, only one volume appeared before his death.

To sum up, we may say that both Pantaleoni and Pareto were brilliant minds of the very first calibre, with whom not a half-dozen other contemporary thinkers can be compared. Pantaleoni was perhaps the more subtle economist; Pareto the more original sociologist. Both exerted a great influence on foreign scholars and were undisputed leaders of thought in the social sciences at home. In America especially their names have long been familiar although their real accomplishments are little appreciated. It is to be hoped that generous extracts from their writings will soon be made available to the English-speaking public.

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> To be perfectly candid I don't pay so very much attention to the statutes. I endeavor to make the punishment fit the crime, do what I think is right and pay very little attention to the fool penalties set by a knot-headed legislature who know nothing about law-enforcement and care less. The minimum penalty in this state for having liquor in one's possession is $100 fine and thirty days in jail. For a still the minimum penalty is a $50 fine. In other words a man operating a still and selling moonshine whiskey gets off with a $50 fine and some poor customer of his must be given a $100 fine and a thirty day jail sentence. I do not consider that just and consequently never charge anybody with having liquor except a bootlegger. We have another statute making it a felony to steal coal from a common carrier. I frankly have been unable to distinguish between stealing coal from a common carrier and from anybody else and have consequently refused to send any poor devil to the pen for stealing a little coal. I think a jail sentence is plenty. If I were as poor as the culprits usually are, I would certainly steal coal myself. Consequently I always reduce this charge to petty larceny—which makes me very popular with the railroads.

Thus writes a prosecuting attorney from one of the middle western states, frankly acknowledging the nullification of at least two laws within his jurisdiction.

The degree to which the technique of nullification has become part of our governmental system, is only vaguely recognized. No extended analysis of the process has ever been made.

Some months ago in an endeavor to discover whether a survey was at all feasible, I addressed a letter to the approximately three thousand local prosecuting attorneys throughout the United States asking them to indicate, if they would, the extent to which in the administration of their respective offices they made use of their discretion to the point of actually

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nullifying archaic or unpopular laws still on the statute books. The responses have been exceedingly interesting.[1]

Whatever may be the reason given it is certainly interesting to note that at least ninety per cent of the district attorneys who replied admitted that in their jurisdiction it was a common practice for them to use their discretion in the enforcement or non-enforcement of particular laws. And that there were on the statute books many laws which they *never* enforced.

Whether the responsibility for non-enforcement rests upon the grand jury, the petit jury or the prosecuting attorneys seems to me relatively unimportant. The fact is that the laws have been and are being nullified and that the *practice of nullification by administrative officers acting either on their own volition or under the pressure of local public opinion is a widespread and seemingly accepted process of government.* (I do not raise the question of the wisdom of this policy but leave that for others to discuss.)

Although an extended analysis of the correspondence of these county attorneys will perhaps disclose no major facts which are not already common knowledge, it may reveal more vividly the attitude of mind prevalent among these officials whose functions are so crucially important in the problem of law enforcement. Incidentally certain sidelights may be thrown on the actual workings of government.

Seemingly the prosecuting attorneys fall into three classes. In the first are those who deny that they have ever under any circumstances through action or inaction nullified a law or an ordinance. In the second category are those who, while admitting that certain laws are rarely enforced within their respective jurisdictions, throw the blame for the situation upon the juries and insist that in the final analysis they have little or no responsibility in the matter. And finally there are those who boldly admit that they nullify both laws and ordinances whenever and wherever it seems desirable.

Representative of the point of view of the attorneys falling within this latter group is the letter of an eastern prosecutor who sums up his position as follows:

[1] Approximately ten per cent of the attorneys replied. This in all probability constitutes a fair sampling.

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> I believe that an official in a position such as I occupy should use his own judgment to a very great extent. And I am thinking not only of such matters as the Blue Laws, but even assault and battery cases and minor stealings. I have made a continuous drive during the years that I have been here to salvage the juvenile delinquent and have very frequently brought these juveniles into my office, talked with them and prevailed upon the complainant to withdraw his complaint. I have then turned the culprit over to some individual who is not connected with any society, but who is willing to exhibit a personal interest in the youth. I suppose I have had three or four hundred of these cases and it is gratifying to realize that not one single case has returned to this office and every one of these children is today a producer. There is nullification for you I suppose with a vengeance.

Somewhat more hesitant in their acknowledgment that administrative discretion is occasionally used to nullify either laws or ordinances are the attorneys who throw the responsibility for their action or lack of action on the juries.

"There is no doubt", writes an attorney from one of the western states, "that administrative discretion is used, but it is largely guided by public sentiment. When public sentiment is such that no conviction can be secured by juries, there is of course no reason to spend public funds merely to inconvenience those who are operating in violation of certain laws."

A slightly different point of view is expressed in a letter from an attorney in New England. "The law enforcement officers", he writes, "are for the *assistance* of the people in prosecuting crime. They themselves cannot be responsible for the prosecution of every crime, but must devote themselves to those most disturbing the public peace and safety."

The point is also made in this connection that certain laws are obviously poorly drafted and do not mean what they say. Section 1 of chapter 52 of the Private Acts of the Legislature of Tennessee may serve as an example. It reads as follows: "Be it enacted by the General Assembly of the State of Tennessee, that it shall be unlawful for any *owner*[1] or keeper

[1] Italics mine.

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of horses, mules, cattle, sheep, goats, hogs, or any kind of live stock to run at large in the counties of this state having a population of not less than 17,560 nor more than 17,575 by the Federal census of 1910 or which may have such a population by any subsequent federal census." "It is apparent from the above", remarks the attorney who sends the information, "that the live stock may run at large at any time, but the owner or keeper of the same is prohibited from doing so."

Three groups of laws in particular seem to have come more fully under extra-legal proscription than others: certain specific aspects of the speed law, the Sunday closing laws, and certain of the laws dealing with the problem of sex, particularly that relating to adultery.

"We have a law making it an offense to drive an automobile above forty miles an hour on the highways", writes an attorney from Kansas. "So far as I know there have been no prosecutions. If you come this way and do not violate this statute, kindly let us have a view of the rags and ribs you have on wheels." This attitude on the part of this Kansas attorney resembles very much that of a Philadelphia policeman who replied very recently to a party of automobilists inquiring the way to Washington. "Turn right at Center Street, left on 67th, follow the signs until you get on to the Baltimore turnpike—then drive like blazes." More expressive of the fundamental point of view of these enforcement officers is a response which comes from West Virginia. "The automobile laws here are not enforced with absolute strictness. Our feeling generally is that those laws are useful to prevent reckless driving but the highway police pay practically no attention to fast driving where it is apparent the driver is exerting care and skill." The same point of view is expressed in a slightly different manner by a prosecutor in Iowa. "Our laws against the speed at which automobiles operate, especially through towns and villages on the arterial traveled highways are unreasonable and little, if any, attention is paid to their enforcement."

One can readily understand the processes of thought which have led these administrative officials to believe that they have

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the moral right to substitute their own judgment for the law when a paragraph such as that contained in the Virginia Code of 1919 is brought to light, providing as it does: "If any person drive or ride over a bridge faster than a walk he shall be fined not less than five nor more than twenty-five dollars." Equally understandable is the the prosecutors' reaction to a section of law which states that "any engine or machine being driven or drawn on a highway must be preceded by a man on foot who notifies on-coming horse drawn vehicles of the approach of such engine or machine." "This law", as the prosecuting attorney who cites it remarks, "if enforced, would require all automobiles to be preceded by a man on foot."

Illustrations of the nullification of traffic regulations still on the statute books might be multiplied almost indefinitely. Suffice it to say that more than seventy per cent of the attorneys who replied commented on the very general practice within their jurisdictions of nullifying specific provisions of these laws. In general their objective seemed to be the development of a system of highway control which would expedite traffic and at the same time eliminate reckless and dangerous driving. The objective undoubtedly is good. In its attainment the administrative officers are constantly and continuously resorting to the technique of nullification, substituting their own personal judgment of wise public policy for that specifically set forth on the statute books.

Even more widespread and much more thoroughgoing is the use of the process of nullification in connection with the Sunday Blue Laws. "Any attempt to enforce these laws", writes an attorney from Montana, "would make a public officer the laughing stock of the community." That such would indeed be the case in many sections of the country goes without saying. Some idea of the general attitude of the public in certain communities at least toward legislation of this character is revealed by a recent incident in Iowa. The county prosecutor had been forced to take action by virtue of the fact that "a citizen had filed information against a confectioner for selling a candy bar on Sunday. The defendant stood for trial, took the witness stand in his own behalf, and frankly admitted

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his guilt. The jury returned the verdict within three minutes —*Not Guilty.*"

This attitude, however, is by no means universal throughout the United States. There still remain many communities in which certain portions of the Blue Laws are enforced. The situation in Florida is probably more or less typical of that existing in these communities. One of the state's attorneys writes:

> Our Blue Laws are not enforced nor neglected uniformly through the state. Those having to do with work on Sunday are generally neglected except when some prosecutor in an effort to stop moving picture shows or other amusements on Sunday prosecutes by virtue of these statutes. In the larger cities of the state moving pictures are shown on the Sabbath quite generally. Elsewhere when attempts are made to keep the theaters open, the clergy get together and stir the officials into action. Such a contest between the producers and the clergy depends, for the most part, on the county judge. If he is of Blue Law disposition it is possible to make the prosecution so vexatious that the producers will desist from their attempt to show the pictures. If, on the other hand, he is a liberal and consistently refuses to issue more than one warrant at a time the prosecution will in all probability peter out.

So widespread is the practice of nullifying the Blue Laws throughout the nation, that further comment thereon seems unnecessary.

Not so well known, perhaps, is the fact that the laws against adultery and certain other sex crimes have been and are being annulled on a scale only slightly less extensive. "The three offenses against our law in this county most conspicuous by reason of their non-appearance on our court dockets", writes an attorney from Georgia, "are offenses of adultery, Sunday violations, and the carrying of concealed weapons." "I have been practicing law in this county for fifty years", writes an attorney from Tennessee, "and I do not remember a single case of prosecution for adultery." From Iowa comes the information that "only once in twenty years has there been a prosecution in this county for adultery, and that was a very

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flagrant case where the defendant had taken another man's wife and children and was living with them openly."

A somewhat more qualified admission is contained in a communication from Arkansas. "We have no laws on the statute books which are not enforced, some very strictly and some very seldom", writes one of the county prosecutors. "However, we allow the negro many privileges down here. Some of them marry several times a year without divorce. Most all of them refer with pride to their 'outside children'. The law of adultery is enforced now and then when it becomes too open. . . . As a general rule the white classes here live pretty well within the law—or apparently so." This situation, moreover, does not seem to be confined to the South, for from Michigan comes the statement: "The law relative to bigamy among negroes is seldom made use of. We find in the manufacturing localities that this practice is so general that it would be impossible to bring all violators to justice."

Similar admissions, more or less qualified, are notably widespread.

Not all of the prosecutors making these admissions are willing to accept the responsibility for the situation by any manner of means. "You mentioned in your letter the fact that numerous divorces are granted in New York on the charge of adultery and that there are no prosecutions for the crime", writes an attorney from Iowa. "That, of course, is equally true in this state but all these cases, where divorces are secured on the ground of adultery, are cases where very little proof or corroboration is required as there is no appearance by the defendant and there probably would not be sufficient evidence for a conviction under the criminal statutes, and probably not sufficient evidence for obtaining a divorce if a case were contested."

Although admitting an element of truth in this contention, one cannot help wondering to what extent the evidence presented in these civil cases is even reviewed by the prosecutor's office. A great many of the county attorneys are frank to admit that there is no review of this evidence at all. Some even go so far as to say that it is the policy of their office, when

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forced to take action by virtue of a persistent complaint, to bungle the presentation of the case in such a manner as to force the court to throw it out. The fact simply is that in a great many jurisdictions, probably in the majority of jurisdictions, the laws penalizing adultery are nullified by administrative inaction.

In the light of the attitude of our prosecutors toward the laws against adultery it occasions no surprise to discover that they have adopted the same attitude toward those penalizing fornication.

Just what the attitude of these officials is in regard to the statutes against prostitution is somewhat more difficult to discover. Nevertheless, reading between the lines of their replies, one cannot help coming to the conclusion that a Montana prosecutor attempting to sum up the situation for his own state succeeded in summing it up for the Union:

> In regard to the laws against prostitution, most all of the large cities have regular houses of prostitution carrying on a regular business at a fixed place. Some few of the cities attempt to enforce the statute with the result that there are no regular houses of prostitution, but there are no cities in Montana where there are not regular prostitutes who live in hotel rooms and carry on a regular business. There is no city in Montana where there are not waitresses and chambermaids who earn at least a part of their living by the regular practice of prostitution.

Even more difficult is it to discover the policy followed by the prosecutors relative to the law prohibiting abortion. That approximately ten per cent of those replying were frank enough to list this as one of the statutes they rarely enforced is almost astounding. Needless to say this percentage does not in any way represent the total number of district attorneys who hesitate to prosecute for abortion.

Although the statutes just indicated are those most frequently mentioned by prosecutors as being generally ignored, the laws prohibiting the possession of liquor, gambling, swearing, prize-fighting and the sale of cigarettes each received

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mention in the replies of approximately fifty per cent of the attorneys.

It is impossible to record at length the correspondence in connection with each of these statutes. A few of the comments, nevertheless, are so revealing of the attitude of mind which lies behind the act of nullification that further quotation seems justifiable.

> Permit me to mention [writes an attorney from the midwest] that the law most vividly recalling the dark ages in my county is the Federal statute prohibiting among other things the possession of intoxicating liquor. The sheriff and the county attorney of this county are both under official oath to uphold and defend the Constitution of the United States. We both have power and it is our official sworn duty to make or cause arrests for violations of that most fundamental law. As a matter of fact, we do not think of enforcing this law, and if we did, we would not get enough votes at the ensuing election to tell of the existence of the franchise.

A slightly different cause seems to have motivated the nullification of this law in Idaho. One of the county prosecutors writes:

> The so-called dry law of Idaho makes the possession of intoxicating liquor in any form an indictable misdemeanor. For a time after its passage an attempt was made to enforce this law in cases where the defendant was caught in the possession of intoxicating liquor in any quantity however small, with the result that juries generally over the State failed to convict upon the merits and the result was either a hung jury or an acquittal, with considerable public expense. It has become my custom and I gather that it is the custom of most Prosecuting Attorneys with any experience throughout the State, not to bring prosecution upon charges of possession unless the amount of the liquor found runs into several gallons, thus being indicative of an intent to sell.

Still another sidelight is thrown on the situation by another prosecutor from this same state.

> The Prohibition Act of the State of Idaho prohibits the

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manufacture of intoxicating liquors of any form but despite this fact large quantities of malt syrup are sold throughout this territory and the officers have actual knowledge of many substantial citizens who make home brew and wine. So long as these citizens do not attempt to sell any of their liquor and are not publicly disorderly but brew the liquor for their own use, no prosecutions are attempted.

The statutes of Idaho define intoxicating liquors as to include spirituous, vinous, malt and fermented liquors, and all mixtures and preparations thereof, including bitters and other drinks that may be used as a beverage and produce intoxication.

As can easily be understood from this definition, a large number of proprietary medicines and tonics come within the prohibition. These, of course, are handled exclusively by drug stores, but so long as the druggists do not sell such preparations to known drunkards or in such quantities as to indicate that they are being sold for beverages no prosecution is made.

A somewhat different attitude is revealed in an admission which comes from Utah.

> We have 16 soft drink parlors in one of our cities in this county where both city and county officials know that intoxicating liquor is sold and nothing has been done by our sheriff. The city officials have arrested them and continue to arrest them every three months and they all pay $299 as a fine with the understanding that they may go their way and continue to sell liquor. The officials feel that it is better to have liquor sold at certain designated places under restrictions, than to have it sold from the residences of the people.

Thus do the dry laws take their place with the speed laws, the Sunday Blue Laws, and the law against adultery, in certain communities, in so far as the local enforcement officials are concerned.

In light of the fact that the demand for strict enforcement, in respect of the Volstead Act, comes for the most part from the churches, some of the comments on the anti-gambling laws are not quite devoid of irony. An attorney from West Virginia writes: "The use of gaming devices such as raffles, wheels of fortune and the like in connection with church and lodge cele-

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brations is never interfered with as long as the impression exists that the money is to be used for a charitable purpose, although there is no such exception in the law." An attorney in Iowa grows almost irate. "Despite the fact that section 13218 of our laws prevents lotteries, many of our churches are the worst offenders, to say nothing of the local American Legion Post which raffled off a Ford auto some weeks ago."

The churches, however, are not in reality the worst offenders. Their transgressions are probably relatively rare although the peculiar position these institutions occupy makes any violation of the law on their part exceedingly noticeable. The real offenders against the gambling laws are, after all, John Doe and Richard Roe. What is the attitude of the prosecutors toward them? It is well summarized in a statement by one of the prosecuting attorneys in Missouri.

> Let us suppose [he says] that John Doe and Richard Roe are playing a game of golf and bet ten cents a hole on the results. No one would think of arresting them nor of arresting their wives who have wagered half a cent a point on a game of bridge. The action of the law is confined to professional gamblers and those gambling for high stakes in public places. In the same way a professional lottery would be prosecuted while a grab bag at the country club or a drawing at a church fair would be unmolested.

"These conditions", he adds, "are not local ones but prevail throughout the whole of Missouri." He might have added, "And throughout the Union."

The extent to which the practice of nullification has gained a foothold in actual administration is suggested at least by mention of the other laws which one prosecutor or another admits proscribing. Among those most frequently mentioned in the correspondence from which we have been quoting are laws prohibiting such offenses as vagrancy, gross frauds at common law, leaving a house without an attendant, criminal provocation, disseminating birth-control information, miscegenation, picking flowers along a highway, playing games likely to frighten horses, appearing in public in the dress of

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the opposite sex, driving a vehicle through the capitol grounds, statutory rape (under certain conditions, particularly if the parties concerned are of equal age), usury, wearing a hat of such a size as to obstruct the view in a theatre, leading a bear along a highway, spitting on the sidewalks, exhibiting deformed persons, fowls or beasts, suicide, forestalling, carrying concealed weapons, perjury, card playing, circulating obscene magazines, peddling goods at a camp meeting, minors operating automobiles; also laws establishing equal social rights for negroes; specifying the space between runners on all sleighs or sleds used on the public highway; laws requiring the maintenance of screens at the intake or inlet of all irrigation ditches, the removal of all noxious weeds, particularly wild carrot and Canada thistle, hedges to be kept clean, sidewalks to be cleared immediately after a snowfall, the capping of artesian wells, the maintenance of hitching posts; and laws penalizing any person having knowledge of a felony and concealing the same from the authorities.

In general, four impulses seem to have motivated the prosecutors in their policy of inaction: (a) the desire to make their actions conform to local public opinion; (b) the belief that it is a waste of time and public money to take action where, no matter how strong the evidence, an acquittal by a jury will be the probable result; (c) the conviction that the enforcement of the particular law in question will produce injustice rather than justice; and (d) confidence that through the substitution of a reasonable discretion on their part better social results will be achieved than through the strict enforcement of the law.

Whatever the motive, the fact is that these enforcement officers have been and are substituting their own judgments for that of the constitutionally ordained policy-determining body and in so doing have actually been nullifying the law. The further fact is that the practice of nullification has long been an accepted phase of our process of government.

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THE RELATION OF INTERNATIONAL LAW TO THE LAW OF GERMANY

IN the first chapter of *The Relation of International Law to the Law of England and the United States,* Mr. C. M. Picciotto makes the following statement which is quoted as the *raison d'être* of this essay:

> An antithesis with which international lawyers are often called upon to deal is that between international law and municipal law. It is obvious that it is of the highest importance to determine adequately the true relation subsisting between these two; for whether we view international law from the standpoint of municipal law . . . or municipal law from the standpoint of international law . . . it is clear that no useful results can be reached unless there is an unshakeable basis of true doctrine upon which argument may proceed.[1]

What Mr. Picciotto says is of even greater importance today when points of contact between the nations of the world are steadily multiplying, thus creating new conflicts which must be settled in accordance with the rules of international law. The importance of international law for the student of law and of politics begins to be recognized everywhere.

The study of the exact relation between international and municipal law has until recently been neglected; jurists have contented themselves with the proposition that respecting the enforcement of international law in national courts a fundamental difference existed between common-law and civil-law countries. It was maintained that in Great Britain and the United States international law formed part of the law of the land and thus directly affected the rights and obligations of their citizens; and that civil-law countries, on the other hand, regarded international law strictly as a *jus inter gentes* which created rights and obligations for and between independent

[1] C. M. Picciotto, *The Relation of International Law to the Law of England and the United States,* p. 12.

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states of the family of nations only. The first contention has been attacked and disproved by Oppenheim, Picciotto and Q. Wright;[1] there remains to be examined the relationship between international and municipal law in civil-law countries. This essay purports to deal with the relation of international law to the law of Germany.

In order to understand the status of international law in the German judicial system, it is necessary to set forth briefly a few of the fundamental principles of the hierarchy of the German state and national courts.[2] A differentiation between private and public law characterizes German, as it does all Continental European, jurisprudence. In the German legal system, the term "private law" includes both civil and criminal law and regulates the relations between the citizens of the Empire and of the component states; "public law", on the other hand, is that body of legal norms "which regulates all official relations and functions of the Empire and the individual states, and of their rightful agents when acting in accordance with the legal provisions regulating the assessment and collection of taxes, the exercise of the police power, etc., etc." [3] In the United States, the original jurisdiction of the federal courts extends to both private and public federal law within the limitations of article 3, section 2, of the constitution. In Germany the national courts apply in original jurisdiction national public law only, national private law being left to the state courts. The *Reichsgericht* (Supreme Court), however, has appellate jurisdiction over state courts in all matters.

Although federal law is thus apparently better guarded in the United States, this advantage is balanced in Germany by the much wider national legislative competency. A uniform

[1] Oppenheim, *International Law* (3d ed.), chaps. xx-xxv; Picciotto, *op. cit.*; Q. Wright, *Enforcement of International Law through Municipal Law in the United States.*

[2] See Mattern, *The Constitutional Jurisprudence of the German Republic,* chap. xiii; Julius Hatscheck, *Deutsches und Preussisches Staatsrecht*; U. S., *Foreign Relations,* 1882, pp. 175-186 (Mr. Coleman to Mr. Sargent, report on the organization of the courts of law in Germany).

[3] Mattern, *op. cit.*, p. 563.

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trade and criminal code had already been established in the North German Confederation and was taken over by the Empire. And in 1896 almost the whole domain of civil law was regulated in the *Buergerliches Gesetzbuch* [1] in accordance with article 4, section 13 of the constitution of 1871 as amended in 1873. Matters of particular local interest only were left to the states.[2] As a consequence, the right of the German states to legislate is considerably narrower than that reserved to the states of the United States. The administration of national private law could, therefore, well be left to the state courts, especially since state court decisions remain in the Republic as in the Empire subject to revision by the Supreme Court. There are also a number of special national courts, e. g. the Marine Office, the Patent Court, the *Reichsfinanzhof*, the *Staatsgerichtshof*, etc.

Cases involving principles of international law may come up both in the state courts and in the special national courts. Due to the very limited legislative power left to the German states, however, state laws are unlikely to come into conflict with rules of international law. We are, consequently, confronted principally with the task of ascertaining the relation between international law and federal or national law in Germany.

1. Customary International Law, 1870-1918

The great majority of German jurists define international law as a *jus inter gentes* in the strictest sense; its subjects are the independent states only and never individuals; its principles can operate only on the states and states alone can derive rights from this law "between nations". Statements to this effect may be found in practically every German book on international law written during the last century. To quote Hatscheck:

> Since international law represents the law only of states in their relation to each other, it follows that international law and municipal law regulate different relationships—international

[1] Hereafter cited as *BGB*.

[2] Viz.: Bergrecht, Jagdrecht, Gesinderecht, Kirchen und Schulbaulast, religioese Erziehung der Kinder, Anerbenrecht.

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> law gives rights and imposes duties only on states, municipal law only on the subjects of these states . . . [1]

If then there exist two legal systems of an essentially different nature, the question naturally arises: Are there any points of contact between them, and, if so, what is the relation of one to the other?

The points of contact are the states; they are at once direct *subjects* of international law and, as the governments of men, the *objects* of international law. The states are the intermediaries between international law and the individual citizen. In their legislation they are bound to conform to an international standard and to comply with generally recognized rules of the law of nations. Indirectly the individual citizen is also bound to obey generally recognized rules of the law of nations, inasmuch as the municipal law which operates on him directly has been enacted by his government within the limits permitted in international law.[2]

This appears to be the general line of reasoning of German jurists. They are unanimously agreed on the principle that international law is binding on individuals and courts only in so far as it has been adopted into municipal law by action of the state. With respect to the nature of this adoption there are two principal theories: *Transformationstheorie*, i. e. the theory that international law is transformed or received into municipal law, that it has by action of the state been made part and parcel of the national law; and *Verweisungstheorie*, i. e. the theory that in certain instances municipal law *refers* to principles of international law, usually where there are gaps in the national legal system and occasionally where there exists a conflict between the two systems of law. Neither theory could, strictly speaking, be called authoritative before 1919, but by the time the republican constitution was adopted in Weimar, courts and writers seem to have agreed on the first theory. The father of the *Transformationstheorie* is H. Triepel, who wrote the only

[1] Hatscheck, *Voelkerrecht*, p. 13; see also H. Triepel, *Voelkerrecht und Landesrecht*, pp. 185, 229; G. Jellineck, *Das System d. subjektiven oeff. Rechte*, pp. 311, 312; J. Kohler, *Grundlagen d. Voelkerrechts*, pp. 49, 52.

[2] See treatment of aliens, foreign legations, etc.

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book in German dealing exhaustively with the problem of the relationship of international law and municipal law in Germany.[1] Time and space do not permit here a discussion of his arguments. The writer is in complete agreement with his conclusions, but reaches them by a different method of reasoning. It is in short the following:

The best disproof of the *Verweisungstheorie* and proof of the *Transformationstheorie* is found in a peculiar provision of the German Code of Civil Procedure.[2] It contains the two following statutes:

> 549: An appeal to a higher court must be founded on the argument that the decision of the lower court is based on the violation of a federal law, or of a law which is in force outside of the district of the lower court's jurisdiction.
>
> 562: The decision of the lower court on the existence and meaning of a law, the violation of which gives no right of appeal, according to stat. 549, is binding on the court of appeal.

To understand this rather ambiguous text, it is necessary to consider its historical background. At the time when the Code of Civil Procedure for the German Empire was enacted there were still in force many purely local laws varying greatly in the different sections of the country and dating back to the time when Germany consisted of numerous petty principalities. Even in the unified Empire many very small states remained which retained their own laws within the limited field granted them. It was necessary for practical reasons to combine several of these states under one court of appeals. Article 549 had the purpose of relieving these appeal courts from suits involving this host of purely local laws. The phrase "outside of the district of the lower court's jurisdiction" came to be interpreted as meaning that the law had to be in force in German territory at least the size of two states or two Prussian provinces.[3] There

[1] Triepel, *op. cit.*

[2] *Zivilprozessordnung,* hereafter cited as *ZPO.*

[3] See comments by Sydow and Buch (*Guttentag'sche Sammlung deutscher Reichsgesetze,* vol. XI), on articles 549 and 562 of the *ZPO.*

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were thus created two kinds of laws, one of which, called "Revisible Norm", gave the right of appeal to a higher court, while the other was decided finally by the first court. The original intention was that only federal laws and laws in force in at least two states or two Prussian provinces should be "Revisible Norm" and should in this respect be distinguished from local laws, in force in a small territory only.

The phraseology of article 549 is vague; this probably accounts for the astonishing development in its interpretation. It was held in several decisions[1] that only *German* law, with the above mentioned exceptions, could be appealed and that *foreign* law had to be classed with those local laws which gave no right of appeal. Foreign law as it is applied in cases of conflict of laws is not considered "Revisible Norm" within the meaning of article 549. To illustrate: If a case involving the interpretation of a provision of the French *Code Civile* comes up in the court of one of the German states, this court's interpretation of the French law in question is final. The case may go to a higher court on appeal if it also involves laws which are "Revisible Norm", but then the higher court has jurisdiction over these "revisible" laws only and must accept the interpretation of the French law as pronounced by the lower court. In other words, where courts *refer* to foreign law there can be no appeal. A law to be "Revisible Norm" must be part and parcel of German law; it does not suffice that German courts apply it. The fact that foreign law is identical with German federal or state law cannot make it "Revisible Norm".[2] If we attack the problem from the other end, we come to the conclusion that if the violation of a certain rule of law gives the right of appeal, this rule of law must be part of German municipal law. Applying this test, we find that the generally recognized rules of customary and conventional international law have always been treated as "Revisible Norm"; they must, therefore, be considered as having been *transformed* into German municipal law and given a different position from foreign law which is

[1] *Entscheidungen d. Reichsgerichts in Zivilsachen* (hereafter cited as *RGZ*), 2, 13; 6, 395; 24, 383.

[2] 63 *RGZ*, 319; see also 57 *RGZ*, 144.

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only referred to by the courts. This argument will be substantiated when the status of treaties is considered. It suffices here to repeat that the mere fact that cases involving principles of international law may go on appeal to higher courts establishes the fact that the German legal doctrine considers generally recognized rules of international law to be transformed into German law.

From a practical standpoint, the most important question—and one with which courts are frequently confronted—is whether any given rule of international law has been adopted by the state. It is evident that courts can apply only such rules of international law as have received the consent of their governments. There are three methods of adoption: (1) legislation with the definite purpose of incorporating into municipal law a specific rule of international law; (2) legislation referring in a general way to principles of international law; (3) adoption by customary law. By far the most frequent and important is the last. However, there are examples of the others also. The first method has been employed in many countries to grant immunity to diplomatic agents.[1] Germany enacted articles 18 and 19 of the *Gerichtsverfassungsgesetz* which exempt members of foreign legations, their families and servants from the jurisdiction of German courts. A good example of the second method is the Prussian Statute of 1793 which says: "Whoever violates international law against foreign states, their heads or representatives, or offends them otherwise, shall be subjected to twice the ordinary penalty attached to such a crime or misdemeanor."[2] The exact nature of such a violation of international law is not explained in the statute, its determination being left to the judge. We shall see presently that similar statutes have been enacted with respect to treaties.

Usually, however, the judge will have no such statute to assist him in determining whether a particular rule of inter-

[1] England: 7 *Anne c. 12*; United States: *Rev. Stat.* 4063, 4064, 4065.

[2] *Preussiches Allgemeines Landrecht,* Theil II, Titel 20, Sec. 135; see also Saxony: *Verordnung des Verfahrens in nichtstreitigen Rechtssachen betr. vom 9. Jan. 1865,* Art. 10.

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national law has been recognized by his state and has therefore impliedly been adopted into its municipal law by custom. The cases given below indicate that it has been the established practice of the German courts to consider all generally recognized principles of international law as recognized by Germany unless there is proof to the contrary. We shall further see that the courts always interpret statutes with the presumption that they were not intended to violate rules of international law, sometimes even to the extent of ignoring a statute which would operate to violate a rule of international law, if it can be shown that the legislator did not intend such a violation of the law of nations.[1] In this the courts are in accord with the opinions of the foremost German writers. Heilborn says:

> Because the state is the creator of municipal law and at the same time co-creator of that part of international law which is binding on it, it follows that it is responsible for a material harmony between the two. . . . In interpreting municipal laws, it is therefore to be presumed that the state did not intend a conflict with international law. If it is impossible to avoid a conflict, however, the judge and the other agents of the state must obey municipal law.[2]

Limitation of space does not permit more than a cursory review of the principal cases involving rules of international law. It has been necessary to omit the facts of the cases, but an attempt has been made to include fully the dicta of the courts on the enforcement of international law.

The Prussian Court for the Determination of Jurisdictional Conflicts (referred to hereafter as *Kompetenzgerichtshof*) stated in a decision [3] on January 14, 1882, that: ". . . . the principle of international law, recognized in all the other great civilized states, that the property of foreign states may not be attached, is operative on Prussian courts, *although this prin-*

[1] *Ziemer v. Roumania; v. Hellfeld v. Russia.*

[2] *Handbuch d. Voelkerrechts,* pp. 89, 91; see also Triepel, p. 398; Oppenheim, p. 29.

[3] *Ziemer v. Roumania;* case involving a suit against the Rumanian government by the holder of Rumanian government bonds.

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ciple is not expressed in any Prussian statute nor in any treaty concluded by Prussia."[1] This is a clear case of adoption by custom. The court also ruled that the argument that this principle of international law was in conflict with a federal statute,[2] was not valid because: ". . . the legislature of the German Empire did not and could not intend any violation of generally recognized principles of international law when enacting article 24 of the *ZPO*".[3]

In 1893 the Berlin *Kammergericht* declared itself incompetent to entertain the suit of a German against the Russian government. It said: "The claim is rejected with costs because the court cannot take jurisdiction in a case against a foreign state both according to principles of international law and according to the general principles expressed in articles 18 and 20 of the *Gerichtsverfassungsgesetz*".[4]

A similar case was decided by the *Kompetenzgerichtshof* in 1902. This involved the attachment of two Turkish warships lying in the Kiel roadstead for the claims of a German national arising out of a judgment in his favor and against the Turkish government by a court in Constantinople. Both the lower courts and the *Kompetenzgerichtshof* refused to attach the ships. The latter said:

> The claim of the plaintiff is purely of a private law nature. The rule that such a claim may not be pleaded against a foreign state is not contained in the municipal law and particularly not in the statutes of the Empire. . . . *The question* whether foreign states are subject to local jurisdiction *is not decided by municipal law but solely by international law.*[5]

In 1905 the Supreme Court in the case of *Bardorf v. Belgian State* stated:

[1] *Zeitschrift f. Privates und Oeff. Recht* (hereafter cited *ZPOR*), vol. XVI, p. 262. In this and other legal opinions quoted in this article, the italics are not in the original.

[2] 24 *ZPO.*

[3] 16 *ZPOR*, 274.

[4] Dec. 8, 1893, ptd. Seuffert's *Archiv*, vol. 50, p. 97 (*Berger v. Russia*).

[5] June 14, 1902, "Turkish Warships Ismir and L'Assari Tewfik": ptd. 13 *ZPOR*, 396.

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> The court of appeals has very properly stated that this question cannot be decided in accordance with article 18 *Gerichtsverfassungsgesetz* nor article 232 *Prozessordnung*, but that, since no treaties dealing with this matter exist between Germany, Prussia and Belgium, and, there being no applicable provisions in the German statutes . . . *the principles of international law alone must be applied.*[1]

Probably the best-known case involving this principle of immunity of foreign states in the local courts is that of *v. Hellfeld v. Russian Government*, which arose out of transactions of the plaintiff with the Russian ministry of war during the Russo-Japanese War. A valid judgment allowing the counterclaim of von Hellfeld had been rendered by the German Consular Court in Kiao-chow. He then brought action to have the judgment executed by attachment of funds belonging to the Russian government and deposited in a Berlin bank. This the Supreme Court refused to do since according to international law such funds may not be attached. The passages relating to the application of international law are the following:

> One must assume in interpreting and applying laws that the legislator has kept within the limits of the political power of the state. Hence, if the Imperial law contained no provisions affecting exterritoriality, the conclusion would be at once justified that the laws do not refer to the subject and that international law principles are of unconditional application.[2]

The court says in concluding: "This decision is based *directly* upon the principles of international law".[3]

Again the Supreme Court applied international law in a case involving the status of foreign merchant ships in port. A Bavarian police officer had been assaulted on board a Swiss

[1] 62 *RGZ*, 165. Bardorf, agent for the Belgian State Railways, brought suit to recover certain sums due him from the Belgian state. The suit was not entertained.

[2] Ptd. *American Journal of International Law*, vol. V, p. 490, at p. 513. The court here refers to the German Code of Civil Procedure, according to which a suit to prevent execution of a valid judgment was prohibited. Such a suit had been instituted by the minister of foreign affairs on behalf of Russia.

[3] *Ibid.*, p. 519.

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merchant ship in the port of Lindau (Lake of Constance). It was claimed that the Lake of Constance must be considered an international sea and if this were so, the ship was entitled to immunity. The court refused immunity on the following grounds:

> The claim for exterritoriality of the Swiss merchant ship *St. Gallen* is not well founded, even if we apply the generally recognized rules of international law relating to shipping on the high seas, to the Lake of Constance. Because, according to these rules, foreign merchant ships in port are subject to the sovereignty and therefore to the jurisdiction of the state in which the port is situated.[1]

The court reached this conclusion after reviewing the opinions of writers on international law.

In 1884 the Supreme Court had to decide whether a brawl on a bridge between Prussia and Luxemburg had taken place in Prussia or in Luxemburg, i. e. the case hinged on the question where the international boundary ran. The court said: "In the absence of written law, it is necessary to take into account what the theory of international law has established and what has become evident as legal maxims in the practice of the courts, and especially in treaties to which Prussia has been a party".[2]

There were also several cases which had to do with members of foreign legations and with crimes committed in the hotels of ambassadors. As mentioned above, diplomats and their retinue are granted immunity by special statute.[3] In interpreting and supplementing this statute, the courts have often had occasion to apply rules of international law.[4]

With respect to customary international law, we arrive at the conclusion that the courts consider principles of international law as transformed into German law whenever they may justly be termed "generally recognized". All statutes

[1] *Entscheidungen in Strafsachen* (hereafter cited as *RGSt.*), vol. II, p. 18; see for same principle Goldammer's *Archiv*, vol. III, p. 658.

[2] 9 *RGSt.*, 370.

[3] *Gerichtsverfassungsgesetz*, 18-20.

[4] 3 *RGSt.*, 70; 11 *ZPOR*, 101; *Zeitschrift f. Voelkerrecht*, vol. II, p. 31.

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are interpreted with the presumption that the legislator did not intend to violate such generally recognized principles which had been accepted by Germany. Nevertheless it is important to remember that German jurisprudence considers international law strictly a *jus inter gentes*, incapable of its own authority to operate on courts and citizens. However, when accepting a rule of international law, the state is deemed to have made it operative on its citizens and courts.

2. *Treaties*

Article 11 of the constitution of the Empire provided that:

1. The presidency of the Federation is accorded to the King of Prussia whose title shall be German Emperor. The Emperor represents the Federation in international law,[1] declares war and concludes peace, enters alliances and *makes treaties with foreign states*, accredits and receives ambassadors.
2. The assent of the Bundesrat is required for declarations of war in the name of the Federation unless an attack has been made on the territory or coast of the Federation.
3. Treaties with foreign states relating to any of the subjects which belong to the sphere of federal legislation according to article 4, require the assent of the Bundesrat for their conclusion and acceptance by the Reichstag to make them valid.

The somewhat ambiguous wording of section 3 raises the following problem: Is the assent of Bundesrat and Reichstag necessary to make treaties relating to internal legislation internationally valid, or does this provision refer to the enforcement of treaties in the courts only? Three theories have been advanced by German jurists: (1) Unger, Born, E. Meier, Gorius, Gierke and Prestele require the consent of Bundesrat and Reichstag as a *condicio juris* for the conclusion of such treaties and claim that the treaty is not valid in international law unless this constitutional requirement has been complied with. This theory has won general recognition in the Republic. (2) Some writers have interpreted article 11 as requiring the assent of

[1] German text: "Der Kaiser hat das Reich voelkerrechtlich zu vertreten".

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the Bundesrat to make a treaty internationally valid and the consent of the Reichstag to make it operative on courts and citizens. This view has never been generally accepted. (3) The Laband-Gneist theory makes a distinction between international and internal validity of treaties. Although supported by the majority of German jurists and by the courts of the Empire it has today been almost completely refuted by proponents of the first theory.

Since some of the fundamental principles involved in the Laband-Gneist theory influence the minds of jurists even today, it will be wise to state the arguments upon which it rests: Whenever a treaty deals with subjects within the jurisdiction of the legislative branch of the government the consent of Reichstag and Bundesrat is required to give it force of law in the German courts. This, however, is a constitutional requirement with which the foreign state cannot be expected to be familiar. For the foreign state, i. e. in international law, the treaty is valid after it has been signed and ratified by the emperor, who represents the German state. In order to prevent the emperor from modifying or interfering with rights of the legislature by concluding treaties on subjects ordinarily not within his province, section 3 provides that such treaties cannot become operative on the courts before the consent of the legislature has been obtained. The legislature has the power to thwart the enforcement of internationally valid treaty engagements. But as far as international law is concerned these treaty engagements remain in force and Germany remains responsible for their violation. This dual validity of treaties constitutes the gist of the Laband-Gneist theory. Laband says:

> That the organs of a state are bound by international law to execute the provisions of treaties and that international law as a higher source of law above the municipal law of a state can have this binding force, is an opinion held by many writers. This is, however, based on a misconception of the nature of international law. International law can only create law between states and never for individuals; it can only be an indirect cause for municipal law.[1]

[1] *Deutsches Staatsrecht*, p. 166.

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It is always necessary that the state command its subjects to obey treaties. Analogous to customary international law, however, this command has by custom lost its importance. Here again the vigorously defended theory that international law is a *jus inter gentes* has been modified in practice.

The custom grew up in Prussia of publishing treaties and statutes of the land in the Legal Gazette and of regarding them as operative on the courts from day of publication. This simple act of publication which gave treaties the force of law was taken over by the North German Confederation and the German Empire and is still valid in the Republic. Section 3 of article 11 provides that publication cannot take place before the consent of the legislature has been obtained for the treaty. The base on which the Laband-Gneist theory rests is that the consent of the legislature and publication in the Gazette have no effect on the international validity of the treaty. While this may be sound judicial theory, it loses importance when we consider its effect in practice. It may be best to cite the Supreme Court in a decision October 26, 1914:

> Germany's adhesion to the Paris Convention . . . taking effect *May 1, 1903* . . . has been communicated to the Swiss government March 21, 1903, and the convention has therefore become internationally binding on Germany according to Art. 11, sec. 1 of the constitution. According to sec. 3 of Art. 11, the consent of Bundesrat and Reichstag were required . . . to give effect to the convention in the courts. The consent of the Bundesrat was given *May 9, 1901*, that of the Reichstag *May 15, 1901*, and the convention was then published in the Legal Gazette on *April 9, 1903*. This has transformed the Convention into federal law and incorporated it into German Municipal Law on Trade and Commerce.[1]

This case, which could be supplemented by many others, shows that although the courts were committed to the Laband-Gneist theory of a dualistic validity of all treaties affecting internal legislation, in practice no conflict could possibly arise, because the consent of Bundesrat and Reichstag was regularly

[1] 85 *RGZ*, 375. Decision involving the interpretation of the Paris Convention for the Protection of Commercial Property.

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obtained *before* the Kaiser ratified such a treaty. The signature of the representatives of contracting states cannot—except when specifically so provided in exceptional cases—bind the states. It amounts to nothing more than a promise to lay the treaty before the constitutional body which has authority to transform the promise into a contract. In Germany the emperor ratified treaties and there was theoretically no need to obtain the consent of the legislature before ratification. In practice this consent was always obtained and therefore did amount to a *condicio juris*. Here we have a case where the original theory is practically reversed by a custom which prevails in most countries where the constitution limits the head of the state in the treaty-making power.[1]

This conflict between theory and practice is eliminated in the new republican constitution which specifically requires the consent of the legislature before a treaty is ratified. The dualistic theory, however, still holds with respect to the publication of treaties. Treaties are not operative on the courts before they have been published in the Legal Gazette. This may create a difficult situation if a decision should depend on the exact date when a treaty became the law of the land. Sometimes several weeks may elapse before a ratified treaty appears in the Gazette. Up to the present time no case has come up involving this question; any opinion must, therefore, be considered speculative.

In the United States it has been held that the internal validity of a treaty dates back to the day when ratifications were exchanged.[2] The general opinion seems to be that proclamation by the president is necessary to give the courts judicial notice of a treaty,[3] but that its provisions come into effect on

[1] For Great Britain see Anson, *Law and Custom of the Constitution,* vol. II, part ii, Sir R. Phillimore in the "Parlement Belge" (1879 P. D. 154); A. D. McNair, "When do British treaties involve legislation?", *Brit. Yearbook of Int. Law,* 1928, pp. 59, 67. For United States see *Foster v. Neilson* (1829), 2 Pet. 253 at 314.

[2] *U. S. v. Arredondo,* 6 Pet. 691; *Haver v. Yaker,* 9 Wall. 32; *Davis v. Concordia,* 9 How. 289.

[3] If the proclamation has not yet taken place, it would seem that a notification from the State Department to the court, acknowledging that the treaty had been ratified, would have the same effect.

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the day when ratifications are exchanged. This would conform to the rule established in *Dillon v. Gloss* [1] that an amendment to the constitution goes into force from day of ratification by the required number of states, and not from day of proclamation. It seems that proclamation in the United States and publication in Germany are two different matters. Article 4, section 2 of the American constitution declares internationally valid treaties to be the "supreme law of the land". This provision renders unnecessary the transformation of each individual treaty into municipal law by special act. In Germany no such constitutional provision exists; publication therefore amounts to a special act making the treaty the law of the land. Publication in Germany combines the effects of article 4, section 2 of the United States constitution, which makes the treaty operative on the courts, with that of the proclamation by the president, which gives the courts judicial notice. If this be true, the conclusion is that in Germany treaties, unless otherwise stipulated in their text, derive internal validity from the act of publication and will be enforced in the courts from the day of publication. In passing it may be mentioned that this problem is unlikely to cause trouble since treaties, especially in recent years, usually stipulate the day when they are to take effect.

This leads us to the question whether by publication treaties are actually *transformed* into German law. Here again we refer to the provisions of the German Code of Civil Procedure which have already been dealt with.[2] An interesting case decided February 25, 1904, by the Supreme Court will serve to clear this problem. It involved the interpretation of the Convention of Bern for the Transport of Goods by Rail which in this particular case had been applied in its character as Austrian law.[3] The violation of the convention had taken place in Austria and was therefore punishable according to Austrian law. Austria had given force of law to the Bern

[1] 256 U. S. 368.

[2] *Cf. supra*, pp. 363-64.

[3] Both Austria and Germany were signatories to the convention. The case came to the Supreme Court on appeal charging misinterpretation of the convention. The appeal was denied since Austrian law had been misinterpreted.

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Convention and incorporated it in her municipal law. The court said:

> The International Convention of October 14, 1890 has created a uniform law for the transport of goods by rail in the signatory states. This uniformity, however, does not amount to a formal unity of law, but is only a material similarity of law, which has come about because each one of the signatory states has *transformed* the convention into municipal law in force in its own territory, there being on account of the sovereignty and independence of each state no other way to create a uniform law for several states. If this case were determined by German law, we would apply the Bern Convention—which has been ratified by Germany and published in the Legal Gazette —*as federal law* and it could then come to this court on appeal and we would take jurisdiction, but in this instance Austrian law has been applied which is not "Revisible Norm" according to *ZPO* 549 and 562.[1]

According to the court's opinion there is no other way to create a uniform law for several states than by transformation into municipal law in each state. This naturally refers to customary international law as well as to treaties. It justifies our contention that principles of international law are *transformed* into German law and that treaties also are *transformed* when they are published in the Legal Gazette. Both must be considered part and parcel of German law.

Treaties, thus transformed into German law, do not, in principle have any superiority over other federal laws and may be repealed by a later statute. This is fully recognized in the United States [2] and has been frequently referred to in German courts. As a matter of fact, the courts always succeed in harmonizing treaties with later legislation. By analogy with their practice in cases where statutes seem to conflict with customary international law, they interpret statutes with the presumption that no violation of treaty engagements was intended by the legislator.

[1] 57 *RGZ*, 144.

[2] See *Foster v. Neilson*, 2 Pet. 254; *Whitney v. Robertson*, 124 U. S. 110, 194; *Head Money Cases*, 112 U. S. 580.

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In a case involving the effect of the Federal Bankruptcy Law on the treaty between Saxony and Austria of January 6, 1854, the Supreme Court stated that the later law did not contain any provision intended to violate the earlier treaty and that: "*unless there is unmistakable evidence* that a breach of treaty obligations is intended by the legislator, the treaty must be applied".[1] With respect to the convention of 1874 between Russia and Germany dealing with property rights and inheritance of nationals of the two states, the Supreme Court found itself in a dilemma because certain provisions of the Code of Civil Procedure conflicted with this earlier treaty. It said: "Treaties are ordinarily not affected by the legislation of one of the contracting states".[2] And in a later case:

> The provisions of the convention have retained their validity even after the enactment of the Code of Civil Procedure. It is true that a bill was introduced in the committee for the drafting of the Introductory Law to the Code providing that: "The provisions of treaties concluded by the Empire with foreign states remain in force", and that it was tabled. However, this was only done because it was considered to be self-evident that *treaties* which had once obtained the force of municipal law, *could* of course, *be repealed by a later statute, but that such an intention was not to be presumed as long as the treaty remained in force.*[3]

It is never claimed that a later law *could not supersede* a treaty. The Supreme Court said in the *Braeg* case: "*Treaties* relating to matters of internal legislation are—with respect to their validity as German laws—subject to the ordinary rules applicable to German federal laws. They *can therefore*—apart from the question of the international consequences to the state—*be overruled by legislation*".[4] Conversely it is held that abrogation of a treaty in international law, or rather its

[1] 24 *RGZ*, 13.

[2] 26 *RGZ*, 128.

[3] 71 *RGZ*, 298; see analogy to v. Hellfeld case, *supra*, p. 368.

[4] 4 *RGSt.*, 271; see also 12 *RGSt.*, 381; Seuffert's *Archiv*, vol. X, p. 2. For legislation punishing violation of treaties see Bavarian Criminal Code of May 6, 1813, art. 306.

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suspension, e. g. in case of war between the contracting states, does not of itself terminate the treaty in its character of German law. In an interesting case decided October 26, 1914 bearing on the rights of a Frenchman under the Paris Convention for the Protection of Commercial Property, the Supreme Court said:

> Although it may be true that the international validity of the convention has ceased with respect to those states with which we are at war, this does not affect the convention as far as it has become part of our civil law and with regard to the nationals of the enemy states. *The international validity of a treaty and its operation on the courts do not necessarily depend on one another.* They depend on each other only where the execution of a treaty cannot be reconciled with the aims of warfare. This, however, is certainly not the case—at least according to German law—with a convention, like the one in question, which deals with matters of private law alone.[1]

A definite act is required to terminate such treaties which have been transformed into German law.

By way of summary we may state that German jurisprudence distinguishes the international from the internal validity of treaties affecting private rights. In theory, before 1918, treaties were concluded by the emperor alone, but in practice the consent of the legislature was regularly obtained before ratification took place. Treaties were enforced in the courts after they had been published in the Legal Gazette. A treaty continued to be enforced even after it was abrogated or suspended between the contracting states, unless a special act was passed repealing it. In principle later legislation overrules earlier treaties, but in practice all later legislation was interpreted with the presumption that no violation of valid treaty engagements was intended by the legislator.

3. Prize Courts

The nature of prize courts and of the law applied by them is a subject of some controversy. It would seem that Lord Stowell's view that prize courts are international courts no

[1] 85 *RGZ*, 375, 6.

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longer obtains. The modern view is perhaps best expressed by Charles Cheney Hyde when he says:

> A prize court created and maintained by a single territorial sovereign is necessarily a domestic tribunal. The law enunciated and applied, regardless of its nature or origin, is essentially the local law, because it obtains where the court sits. Inasmuch, however, as the problems for adjudication, such as the question of prize or no prize, concern the lawfulness of acts committed on the high seas under belligerent flags, and affect the rights of foreign states and their nationals, the court must be guided by the principles of the law of nations.[1]

In other words: a prize court is a domestic tribunal applying local law in conformity with the principles of international law. With respect to the nature of this local law Oppenheim says:

> Every state is . . . bound by international law to enact only such statutes and regulations for its prize courts as are in conformity with international law. A state may, therefore, instead of making special regulations, directly order its prize courts to apply the rules of international law, and it is understood that, when no statutes are enacted or regulations are given, prize courts have to apply international law.[2]

In Great Britain and the United States prize courts usually refer directly to principles of international law, while in Germany they are bound first by the German Prize Code and by rules of international law only if there exists no applicable provision in the code.[3] The German Prize Code was promulgated August 3, 1914 by executive decree. It differs from all other legislation in that the consent of the legislature was not required. The emperor, as commander-in-chief of army and navy, was given authority to enact a prize code by the law of May 3, 1884. Since he is the sole representative of Germany in its international relations, the presumption at once

[1] *International Law,* vol. II, p. 802.

[2] *International Law,* vol. II, p. 240.

[3] *Entscheidungen des Oberprisengerichts in Berlin* (hereafter cited as *Entsch. OPG*), "Elida", p. 9; "Correntina", p. 111; "Zaanstrom", p. 118. See also Dr. E. Heymann, "Das Prisengericht d. Deutschen Reiches", *Deutsche Juristenzeitung,* vol. XIX, p. 1047.

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arises that where he has authority to legislate, he will do so in accordance with those rules of international law which he himself has consented to recognize in the name of Germany. As a matter of fact, the German code consists almost entirely of provisions taken from the Declaration of London [1] and contains several provisions of the Second Hague Convention,[2] to which Germany was a signatory, as well as rules of customary international law.[3]

The objection will probably be raised that the Declaration of London is not international law since none of the signatory powers ratified it. It must be conceded that the Declaration is not conventional international law, but for the purpose of this investigation it may safely be considered declaratory of customary international law, at least in the sense that states basing their prize law on its provisions must be credited with applying the nearest approximation to what may be termed international law at the time of the outbreak of the World War.

Probably the principal reason why British and American prize courts refer to principles of international law directly while German prize courts apply these indirectly through the medium of the German prize code, is that international law, as it has slowly evolved through the centuries, relying largely on precedents, is in its very nature closer to the Anglo-American common law than to the codified law of Germany. It is therefore more easily received into and applied in a common-law system than in a civil-law system. And it is conceivable that this difference in their legal systems is the chief reason why in England and the United States, by customary law, the prize courts apply international law directly, while in Germany the courts are directed to obey a special prize code which, however, purports to be declaratory of international law. It is a difference in method only.

The position of international law in the German prize courts is best expressed in the case of the *Elida*, where the Supreme Prize Court says:

[1] Articles 5, 8, 11-14, 16, 18, 20-33, 35-42, 44-46, 48, 51-53, 55-56, 58-60, 62-63, 65-80.

[2] Articles 3, 4, 6, 7.

[3] Articles 2-4, 10, 17, 19, 34, 43, 48.

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> International law gives rights and imposes duties on states only. Prize courts judging the legality of prizes can therefore only apply principles of international law where the prize code does not contain any relevant provisions and must consequently be deemed to refer tacitly to the principles of international law. It follows that the question whether a provision of the prize code is in accordance with general principles of international law is not within the competence of the prize courts to decide. If a conflict is claimed, the dispute must be decided elsewhere.[1]

This leads to the conclusion that the prize courts are bound to apply the provisions of the prize code even where claim is made that these conflict with international law. In practice the courts always succeeded in reconciling the prize code with international law; the reason being, of course, that the code was originally based entirely on principles of international law, mainly as agreed upon in international conventions. After the amendments of October 18, November 23, December 14, 1914 and April 18, 1915, which made sweeping changes in the contraband lists and in the provisions referring to the carriage of contraband, thereby assimilating the German code to the practice of the British prize courts, the German courts had to rely on the argument that these changes were retaliatory in their nature and therefore not contrary to international law. The identical argument had been advanced by Lord Stowell in the *Fox*[2] decision where he was unable otherwise to reconcile international law with the King's Orders in Council.

Also frequently in the absence of definite regulations in the code the German courts have taken principles of international law into account. So in the case of the *Thorsten*[3] involving the question whether the mere passage of warships and their prize through neutral territorial waters operated to release the prize; in the *Indian Prince*[4] regarding the rights of owners of neutral goods on enemy ships which had to be sunk on account

[1] *Entsch. OPG*, p. 11.

[2] 1811 Edw. *Adm. Rep.* 312.

[3] *Entsch. OPG*, pp. 103, 104.

[4] *Ibid.*, p. 89.

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of military necessity; in the *Glitra*[1] regarding damages to be paid to neutral owners in such cases, etc. Treaties ratified by Germany and published in the Legal Gazette are binding on prize courts in like manner as on ordinary courts.[2]

This brief review leads to the conclusion that the German prize courts were domestic courts—*ad hoc* tribunals—set up by imperial decree at the beginning of the World War. They were bound first by the German Prize Code, second by treaties ratified by Germany and published in the Legal Gazette, and third by customary international law. The Prize Code itself was based entirely on customary and conventional international law; its amendments made during the war were defended on the ground that they were retaliatory in their nature.

Although the municipal character of the German Prize Courts and of the law applied by them has been purposely stressed here, nevertheless it is evident from what has been said that the courts did actually give effect to principles of international law, either indirectly through the medium of the prize code, or in the absence of applicable provisions therein by direct reference to international law.

4. The Weimar Constitution and the Courts

The constitution of the new German Republic, adopted at Weimar in 1919, contains the following provision in article 4: "The generally recognized rules of international law are deemed to constitute an integral[3] part of German federal law". The divergent opinions expressed by the members of the Weimar Assembly[4] when article 4 was discussed and the numerous articles written in Germany and elsewhere on the meaning and effect of this provision make it necessary to examine the intentions of the framers of the constitution and the reasons which prompted them to enact article 4.[5]

[1] *Ibid.*, p. 36.

[2] *Ibid.*, Fenix, p. 1; Primula, p. 17; Kaipara, p. 211; Comte de Smet de Naeyer, p. 209; Reserv, p. 392; Thorsten, p. 103; Indian Prince, p. 89.

[3] "Integral" seems better than the literal translation "binding" of the German word "bindende". It must be understood to mean "obligatory" also.

[4] Verfassungsausschuss.

[5] See Wenzel, *Juristische Grundprobleme*, pp. 468 *et seq.*

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Several members of the Assembly were opposed to this provision because they felt that the world and particularly the Allied Powers would interpret it as a *captatio benevolentiæ*—in view of the charges formulated against Germany during the war—and that such a "political" move was quite unnecessary since the generally recognized rules of international law had already been received by custom into the German legal system. In defense of the article, Dr. Preuss, the father of the German constitution, referred to article 6, section 2 of the constitution of the United States which causes treaties made under the authority of the United States to be the supreme law of the land. He said, "Article 4 should have a similar but wider meaning".[1] And Dr. David added: "The rules of international law which have not been accepted by Germany cannot be considered to be "generally" recognized. Therefore the decision rests with Germany alone".[2] Two representatives, Haussmann and Quarck, introduced the following proposal which they wanted to substitute for the original text. It read: "The relations of the German Reich with foreign states shall be determined [regulated] by treaties, the generally recognized rules of international law, and in the event that Germany enters the League of Nations, the rules set up by the League".[3] Both were very anxious to include in the constitution some sort of solemn pledge to respect international law. Haussmann said: "But international law, the treaties and the League must be mentioned in the constitution".[4]

During the war, Germany had been accused of contempt of international law and disregard of treaty obligations. The defenders of article 4 wanted to include this provision to make similar accusations against the Republic quite impossible. This desire for reform explains the Haussmann proposal. Under other circumstances, such a self-evident and unnecessary provision would immediately have been rejected; the Hauss-

[1] *Bericht und Protokoll d. l. Ausschusses ueber d. Entwurf einer Verfassung*, 3. Sitzung, p. 32.

[2] *Ibid.*, p. 33.

[3] *Ibid.*, 36. Sitzung, p. 406.

[4] *Ibid.*

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mann proposal was actually accepted and dropped only after the minister of justice, representing the government, rose to the rescue of the original draft. He again referred to the Anglo-American doctrine that international law is binding on the state as well as on the citizen, thereby inferring that article 4 would assimilate the German *doctrine* to the Anglo-American doctrine. He stated definitely, however, that the provision would not effect any material change in the *practice* of the German courts and that it could not be interpreted to mean that international law supersedes municipal law in Germany. But in case of doubt German municipal law must be construed with the presumption that no violation of rules of international law which may be termed "generally recognized" is intended by the legislator. He considered article 4 valuable as a *rule of construction.*

H. Oppenheimer in *The Constitution of the German Republic* has the following to say of article 4: "Half a confession and half a protest, and withal a promise of better things for the future, it was obviously inspired by the well-known charges formulated both during the war and in the treaty of Versailles".[1] Although the validity of this statement is open to question, it is quite true that political considerations had much too large a share in the making of the Weimar constitution and of article 4 particularly. It was repeatedly pointed out in the debates of the Assembly that the practice of the courts would not be materially changed; we are therefore justified in assuming that article 4 is declaratory of an already existing rule of German law.

In its general effects and in the circumstances of its adoption, the article bears a faint resemblance to the famous English statute 7 Anne c. 12, which was enacted to mitigate the indignation of the Czar of Russia at the arrest of his ambassador in London for debts. An elaborately decorated copy was sent to him by special messenger. This statute has been said to be declaratory at once of the common law[2] and of the law of

[1] P. 14.

[2] *Viveash v. Becker* (3 M. & S. at p. 202).

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nations.[1] Its effect was not to create a new rule of law for the English courts, but rather to affirm previous practice.[2]

In analyzing article 4, we are confronted with three questions: (1) What are "*allgemein anerkannte*" rules of international law? (The German word "*allgemein*" can mean "universally" and "generally".) (2) What are "rules of international law"? Do these include treaties? (3) Does article 4 transform international law into German law? An investigation of the record of proceedings of the Assembly, the views of German commentators on the new constitution, and the attitude of German courts since 1919 leads to the following answers:

(1) Very few rules of international law can be called "universally" recognized. The Supreme Court of the Empire had constantly applied "generally recognized" rules of international law and a restriction of this practice is not compatible with the spirit of the Republican constitution. Evidence of such an intention on the part of the Assembly does not exist in the record. It is therefore safe to agree with Anschuetz, Giese and Stier-Somlo that "*allgemein*" is used in the sense of "generally". That the consent of Germany is essential was definitely stated by Dr. David [3] in the debates of the Assembly. His view is affirmed by the *Reichsfinanzhof* in its decision of October 12, 1921. It says: "The court can therefore not agree with the plaintiff's citation of article 4 of the German constitution, because, *within its meaning, a generally recognized rule of international law must be recognized by Germany* (see Giese; Poetzsch)".[4]

(2) It is significant that representatives Haussmann and Quarck distinguished repeatedly between "treaties" and "generally recognized rules of international law" and that the Haussmann proposal mentioned both separately. In the new

[1] *The Magdalena Steam Navigation Co. v. Martin* (1859; 28 L. J. Q. B. 310).

[2] This statute granted immunity to diplomatic agents and their families and retinue.

[3] *Supra*, p. 382.

[4] *Entsch. Reichsfinanzhof*, vol. VII, p. 102—reference to books on the Republican constitution by these authors.

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constitution article 45 is practically a copy of article 11 of the Imperial constitution which gave the emperor authority to conclude treaties, the difference being that this power is now given the president. This seems to indicate that treaties are dealt with in like manner in the Republic as in the Empire. In the enforcement of treaties, the courts of the Republic actually follow the precedents set up by the Imperial courts. Article 4 is never mentioned.

However, there is a change in the theory with respect to the time when a treaty becomes effective internally. According to the statements of the representative of the government, Dr. Preuss, and reporter Ablass in the Assembly,[1] article 45 must be interpreted to require the assent of the Reichstag *before* any alliances and treaties relating to subjects within the jurisdiction of the federal government may be ratified. As pointed out in preceding pages, this had already become the practice in the Empire; today theory and practice are harmonized and it is officially maintained that a treaty requires the consent of the Reichstag to become internationally valid.[2] This goes far in eliminating the possibility that a treaty which Germany is in international law obliged to fulfill cannot be enforced in the courts. In this sense, article 45 conforms to the spirit of article 4.

However, as in the Empire, treaties to become operative on the courts still require publication in the Legal Gazette.[3] Had the intention been to include them in article 4, the act of publication would be superfluous in so far as transforming them into municipal law is concerned and would be analogous to proclamation in the United States. That is not the case, as will be seen from cases cited below. German jurists and courts continue to distinguish between the international and the internal validity of treaties affecting matters ordinarily dealt with by legislation. Recently this dualistic theory has been

[1] *Verfassungsausschuss Protokoll,* p. 283.

[2] Anschuetz, *Reichsverfassung,* p. 163; Giese, *Reichsverfassung,* p. 160; Poetzsch, *Verfassung d. Deutschen Reichs,* p. 97; Wenzel, *Juristische Grundprobleme,* pp. 489 *et seq.*; Hatscheck, *Staatsrecht,* vol. II, p. 485; Stier-Somlo, *Deutsches Reichs- und Landesstaatsrecht,* vol. I, p. 611; etc.

[3] Arndt, *Reichsverfassung,* p. 709; Laband, *Staatsrecht,* vol. II, p. 44.

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attacked by the Viennese school—Verdross and Kelsen—but we cannot accept their new and interesting doctrines as long as the courts follow the tradition. The Viennese jurists base their doctrine on the hypothesis that a state has only one legal will. It is claimed to be impossible that the state can "will" one thing in its relations with other states, and the opposite in its relations with its subjects; that it cannot conclude a treaty providing for a change in its internal legislation and omit to make this change. This monistic theory which considers every internationally valid treaty *eo ipso* binding on the courts is not accepted by the German courts. They continue to speak of international and internal validity of treaties. In this controversy between fact and theory, fact is of greater significance.

In a case where it was sought to claim certain rights under the treaty between Germany and Poland of January 9, 1920, the Supreme Court said: "We agree with the lower court's contention that *the ratification of a treaty does not in itself affect the private rights of the plaintiff*".[1] In its decision of June 18, 1927 the same court said:

> The right of the plaintiff to deduce rights from the provisions of article 18 [of the treaty between Poland and Germany relating to Upper Silesia, dated May 15, 1922] has wrongly been denied by the defendant. The . . . convention is in fact a treaty between the two states, but *it has been published in the form of a law . . . and has therefore been given the force of law in Germany.*[2]

The difference between the two treaties was that the first had not been accepted by the Reichstag nor published in the Legal Gazette, but constituted merely a provisional agreement which had not been given force of law in Germany. The second, on the other hand, was concluded in accordance with the provisions of article 45 of the Weimar constitution. These cases illustrate the familiar dualism attributed to treaties today as before 1919.

Treaties, transformed into federal law, are not given any

[1] 105 *RGZ*, 157 at 159. [2] 117 *RGZ*, 280 at 284.

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superiority over the federal laws and may, in principle, be repealed by a later act. This view is taken by the *Reichsfinanzhof* in its decision of April 4, 1920.[1] The court had to decide whether the word "war contribution" which occurred in the treaty between Prussia and the Argentine of September 19, 1827, included the special war assessment of 1918. The treaty provided that nationals of both countries should be free from war contributions and the law of 1918 subjected *all* foreigners to the special war tax. The court decided that the tax was not a war contribution within the meaning of the treaty. Nevertheless, even though the later law did not conflict with the treaty, the court made this strong statement:

> The treaty would . . . only be binding on the German courts or the German legislator, if it had to be recognized as a German law. The assent of Bundesrat and Reichstag, necessary for a German law, according to article 11, sec. 3 of the old constitution, has not been obtained for the treaty.[2] The question whether it must nevertheless be regarded as a treaty of the Reich and at the same time vested with the power of a federal law, may be left undecided; for even if this were the case, *the later act . . . would prevail.*[3]

The possibility of a conflict between treaties and federal acts was greater in the Empire because it was uncertain whether the assent of the legislature was required to make the treaty internationally valid. In the republican constitution it is provided that the same body which makes the laws for the land, also gives its assent to the ratification of treaties. Actually no treaties ratified by the German Empire had ever come into conflict with later federal laws—despite the theoretical possibility. In the few cases where the courts expressed opinions in favor of a federal law, *if it should be impossible to reconcile it with an earlier treaty*, the treaty dated back to a time prior to the foundation of the German Empire or even the North German Confederation.[4]

[1] *Entsch. Reichsfinanzhof*, vol. III, p. 10.

[2] It dated back to 1827.

[3] *Entsch. Reichsfinanzhof*, vol. III, p. 10.

[4] 4 *RGSt.*, 271; *Entsch. Reichsfinanzhof*, vol. III, p. 10.

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A further reason why treaties cannot possibly be included in article 4 is that there remains a possibility that a treaty signed and ratified cannot be enforced in the courts. In the new constitution's intricate scheme of checks and balances there is an article (74) which provides that: "The Reichsrat may protest against laws passed by the Reichstag. The protest must be lodged with the government within two weeks after the final vote has been taken in the Reichstag . . ." As the assent of the Reichstag to treaties affecting internal legislation amounts to an act of legislation, the Reichsrat would probably have a right to protest against any such treaty, after it had been ratified, thereby delaying or obstructing its enforcement. If ratification takes place before this protest is lodged, the treaty cannot be published in the Legal Gazette and would therefore not be operative on the courts. This is, of course, very unlikely to happen, but if article 4 is interpreted to include treaties, there would be a theoretical possibility for a conflict between articles 74 and 4 which cannot have been the intention of the framers of the constitution.

(3) In the debates of the assembly Dr. Cohn inquired whether the phrase "constitute an integral part" could not be substituted for "are deemed to constitute an integral part". Dr. von Simson was in favor of the original text because: "rules of international law cannot constitute an integral part of German law; they must be applied 'as if they were German law'".[1] This statement may create the impression that rules of international law will be *referred* to in the Republican courts—that they are not transformed into German law. Even if Dr. von Simson desired to introduce an entirely new method of applying international law, which is hardly probable, the courts have disregarded his wishes, continuing to treat international law, so far as it has been recognized by Germany, as transformed into German law. Reference has been made to the Code of Civil Procedure and its value as a proof that international law is transformed into German law. The code remains unchanged in the Republic and the reasons given above[2]

[1] *Verfassungsausschuss*, 36; Sitzung, p. 407.

[2] *Cf. supra*, pp. 363-64.

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stand today as before 1919. Article 4 is considered to be a "general and permanent transformer" of generally recognized rules of international law into German municipal law.[1]

In recent decisions dealing with questions of international law, the courts seldom refer to article 4. As a rule they feel that citation of article 4 is unnecessary to justify their application of principles of international law. The Supreme Court said in a decision of April 4, 1921: "Since there are no treaty regulations on this subject, we must apply the rules of international law".[2] In some decisions the courts have mentioned article 4 incidentally. In *Jonas Sill v. Ice King* the question was raised whether the principle of international law that foreign states enjoy complete immunity from local jurisdiction, even when engaged in trade, was still "generally recognized". The court finds that this principle has undergone no change since the war and says:

> Although there exists evidently a general desire to limit the immunity granted to foreign states, nevertheless this development is not yet generally recognized and cannot, therefore, be deemed to have changed the above mentioned principle of international law (see also article 4 of the constitution of August 11, 1919).[3]

Again in a decision of March 18, 1926, the Supreme Court stated:

> It is true that German federal law does not contain such a rule of law; it must, however, be recognized as a principle of international law and applied in the case at bar, since there exists no treaty with Hungary which would otherwise have to be applied. . . . This principle of international law constitutes an integral part of German federal law according to article 4, because it is generally recognized.[4]

As a matter of fact, the courts sometimes mention article 4 and

[1] See Arndt, *Reichsverfassung*, p. 62; Anschuetz, *op. cit.*, p. 49; Giese, *op. cit.*, p. 56; Walz, *Die Abaenderung voelkerrechtsgemaesses Landesrechts*, p. 95.

[2] 55 *RGSt.*, 286.

[3] 103 *RGZ* 276.

[4] 60 *RGSt.*, 202.

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at other times forget it. This attitude serves also to show that article 4 has not materially changed the practice of the courts, but that it merely strengthens previous custom; it is declaratory of an already existing rule of German law.

Just what effects the existence of article 4 will have in the German constitution can only be understood by taking into account the general principles of the judicial system of the Reich. According to article 13, section 1 of the new constitution, federal law supersedes state law; generally recognized rules of international law, having been transformed into federal law by article 4, supersede state law. It was stated earlier in this essay that the federal laws regulating the relations between the citizens as private individuals—civil and criminal law—are administered by the state courts, while federal public law is applied in special national or federal courts. A crucial question in this connection is whether the courts have the right of judicial review of the constitutionality of federal laws. This question has by no means been settled and the controversy among jurists for or against this right of judicial review continues unabated. In this controversy such authorities as Triepel, Poetzsch, Hubrich, Buehler, Eber-Mayer and Marx favor the affirmative answer, while the right of judicial review is denied by Anschuetz, Schack, Arndt, Wittmayer, Jellineck, Hatscheck, Thoma and others.

In America we are so accustomed to the practice of the Supreme Court of declaring federal laws unconstitutional that this controversy may appear strange. In *Marbury v. Madison*[1] Judge Marshall explains this right as a necessary feature of a government under a written constitution. As Thayer has pointed out,[2] however, this argument was untenable in view of the fact that France, Switzerland and (Imperial) Germany had written constitutions and yet the courts in these countries were not allowed to question the validity of legislative or executive acts. England has laws relating to the organization and functions of the government which may be called constitutional laws, and France has had since the Second Empire a collection

[1] 1 Cranch 137.

[2] *Legal Essays*, vol. II, p. 30.

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of separate laws regulating the powers of government; in both countries the courts have no right to examine whether legislation is in conformity with these constitutional laws. The Swiss constitution states that "the laws and general decrees of the Federal Assembly and the treaties approved by them, shall be the supreme law for the federal tribunal", and the new constitution of Austria declares that: "the examination of the legality of laws properly promulgated does not come under the jurisdiction of the courts".[1]

In the pre-constitutional period of absolute monarchy in Prussia laws enacted by the monarch [2] constituted binding orders upon the courts. The monarch alone had the right to legislate. The Imperial constitution of Germany delegated the legislative power to the Reichstag and Bundesrat, but the courts were still bound by every law passed by Reichstag and Bundesrat and promulgated by the emperor. The courts were considered to be legitimately interested only in the actual fact of the publication of a law.

In the new constitution the president is required to "compile the constitutionally enacted laws and to promulgate them within a month in the Legal Gazette".[3] Whether the act of "compilation" requires an examination by the president into the constitutionality of the laws which precludes the courts from re-examining them, the constitution does not say. The constitution neither gives the right of judicial review, nor does it deny it. The question did arise during the debates in the Assembly, but was left undecided because no agreement could be reached between the parties *pro* and *contra* judicial review.[4] Those against judicial review follow Laband, Lukas and other leading writers of the Empire who have held consistently that the promulgation of a law guarantees its constitutionality. Their opponents, led by Dr. Preuss, claim that German constitutional theory and practice assume the existence of such a

[1] Art. 89 of the constitution of 1919.

[2] This was true in all the states that were unified in the German Empire in 1871.

[3] Art. 70.

[4] *Verfassungsausschuss Protokoll*, p. 483.

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right except where it is specifically denied. Marx and Triepel call attention to what they consider an important fact, namely, that while the national government may not require the protection of the courts, the states are not in so fortunate a position. It is possible for a national law to be enacted which a particular state may consider unconstitutional. Should a state refuse to comply with a national law which it considers unconstitutional, a conflict arises between it and the national cabinet; either may ask the *Staatsgerichtshof* to settle the dispute.[1] It is difficult to see how the *Staatsgerichtshof* can have jurisdiction in such a case unless the right of judicial review of federal law is granted. Thus, Triepel and Marx say, the spirit of the constitution clearly gives courts the right to pass on the constitutionality of federal laws.

While the German jurists are busy proving their respective doctrines in theory, the courts seem to have decided the issue in practice. The Supreme Court stated in a decision, December 8, 1923: "It is the recognized rule of law that the courts are in principle authorized to examine the formal and material validity of laws and ordinances".[2] In several cases the Supreme Court has asserted the right to declare federal laws unconstitutional [3] and has so done.[4]

It is probable that the question will be settled by a special amendment to the constitution. Dr. Kuelz, Minister of the Interior, announced and published in the September 1926 issue of the *Deutsche Juristenzeitung* [5] a text for a bill intended to give courts the right of judicial review. This provides that when a court finds it cannot apply a federal law because of incompatibility with the constitution, the case must be discontinued and brought to the *Staatsgerichtshof*, whose decision shall have the force of law and must be published by the government.

[1] According to article 15 of the 1919 constitution.

[2] 107 *RGZ*, 379.

[3] 107 *RGZ*, 370; 107 *RGZ*, 315; 102 *RGZ*, 161; 107 *RGZ*, Appendix, pp. 1-16.

[4] 107 *RGZ*, 315.

[5] Pp. 837; no evidence could be obtained whether the bill has been discussed in the Reichstag. It appears that it has not been passed yet.

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If the right of judicial review of federal law is given the courts by an amendment to the constitution, or if the courts continue to assume this right, which is to be expected in view of the above decisions, the importance of article 4 will be increased. Although the article leaves with the legislative and executive branches of the government the decision whether a rule of international law is "generally recognized", once such a rule has been accepted, any subsequent law violating it may be declared unconstitutional by the courts. Unfortunately for this inquiry there have been few decisions involving article 4 in the ten years since the Weimar constitution was adopted. No federal law has yet been found to violate "generally recognized rules of international law" and what has been said remains to be proved by actual practice of the courts.

To be sure, article 76 permits the amending of the constitution, but whereas the old constitution could be amended by an ordinary act of legislation, the new constitution requires that two-thirds of the legal total of the members of the Reichstag be present and that two-thirds of those present vote for the amendment. There is also the possibility of submitting the amendment to popular vote. This increased difficulty of amending the constitution acts to enhance the significance of article 4.

It must be repeated, however, that article 4 is declaratory of a customary rule of German law and does not effect any change in the practice of the courts. It is valuable as a "rule of construction" and will probably influence the legislature.

5. *Conclusions*

The relation of international law to the law of the German Republic may be summarized as follows:

(1) With respect to *customary international law*: Rules of international law which have received the assent of the majority of states, including leading powers, and which have been recognized by Germany, either expressly or tacitly, are applied in the German courts and have the character and force of federal laws. As such they supersede state laws. Statutes are construed with the presumption that they contain an im-

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plied reservation to the effect that they shall not be applied whenever their provisions conflict with generally recognized rules of international law.

Provided the right of judicial review is definitely established in Germany, statutes will be declared unconstitutional if in conflict with such generally recognized rules of international law as have previously been accepted by Germany and applied in the courts; however, if these statutes are enacted in accordance with the provisions of article 76 of the constitution, which regulates the passage of amendments to the constitution, they must be applied in the courts, generally recognized rules of international law notwithstanding.

(2) With respect to *treaties*: All treaties are concluded by the president. Whenever treaties refer to matters otherwise dealt with by federal legislation, they require the consent of the Reichstag to make them internationally valid. They obtain force of law in the courts after publication in the Legal Gazette. This publication must take place not later than one month after ratification.

After publication in the Legal Gazette treaties are considered to be federal laws; as such they can be superseded by a later statute. In the absence of unmistakable proof to the contrary, however, statutes are construed with the presumption that they contain an implied reservation to the effect that they shall not be applied whenever their provisions conflict with obligations under an internationally valid treaty which has been published in the Legal Gazette.

If a valid treaty, which has been published in the Legal Gazette, is suspended or abrogated by the contracting state or states, it retains its character and force as a federal law until expressly repealed by the German government.

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HARRINGTON AND CONTEMPORARY THOUGHT

HARRINGTON'S *Oceana,* apart from the somewhat excessive praise it received from Hume and other isolated writers in the eighteenth century, was for many years a member of that "great army of books which are often mentioned and seldom read."[1] More recently there has been some revival of interest in it, notably through the work of Mr. H. F. Russell Smith, who has traced the connection by which Harrington's influence was reflected in the constitutional experiments of the American colonies,[2] while before this several writers had pointed out some interesting aspects of his thought.[3] The modern reader will find there a full and critical account of Harrington's model constitution and the leading principles on which it was based, and my purpose here is not to summarize again what has already been described. I am concerned rather with the origin of certain of his ideas, in which there are several points which need some elucidation.

Attention is commonly drawn to certain peculiarities in Harrington's work, which show him to have been a thinker of marked originality: among these are his "capital contribution to political thinking"[4]—the principle that political power rests on an economic foundation—and the valuable lessons that he learned on his travels, and in particular his study of the constitution of Venice. Stress is also laid on his perception of the genius of Machiavelli, and his use of the inductive method in political theory: "No man", he says, "can be a Politician, except he be first a Historian or a Traveller",[5] and in his firm

[1] Gooch, *Political Thought from Bacon to Halifax,* p. 113.

[2] Russell Smith, *Harrington and His Oceana* (Cambridge, Eng., 1914).

[3] E. g. Dwight in POLITICAL SCIENCE QUARTERLY, March 1887; Dow (in an article on "The Political Ideal of the English Commonwealth") in *Eng. Hist. Review,* April 1891; a valuable section on Harrington appeared in Gooch, *English Democratic Ideas in the Seventeenth Century* (first pub. in 1898).

[4] Gooch, *Eng. Dem. Ideas* (ed. Laski), p. 246.

[5] *Oceana* (*Works,* p. 183).

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conviction of the importance of history he stands on a different footing from many contemporary thinkers and builders of utopias.

But with all due respect to his merits, the isolation of his position can be, and, I think, has been exaggerated. For our knowledge of his life we are mainly dependent on the account written by Toland and published in 1700 as a prefix to his edition of Harrington's works, and as Toland derived most of his information from papers given him by Lady Ashton, Harrington's sister, little evidence is available to supplement our knowledge. From Toland we learn that he was educated at Oxford, spent some time in foreign travel and became associated with Charles I, and that after the execution of the king he spent seven years in retirement, at work upon *Oceana,* which appeared in 1656. It is clear that he stood somewhat aloof from the multitude of politicians and pamphleteers to whom the events of the period afforded opportunities for airing their views, though it is equally clear that Harrington's scheme was itself a product of, and an attempt to remedy, the troubles of the times. Toland makes no mention of any connection between his ideas and those of his contemporaries, and it is true that his plan of government differed widely from what either royalists or republicans aspired to; but although he had lived a life of scholarly abstraction, and had taken no part in the active political life of the Puritan movement, it would, I think, be wrong to infer that in thought also he owed little to it. He himself, it is true, seems to have attached the greatest importance to his travels abroad, and especially to Venice, and modern commentators have tended to emphasize this, to the neglect of sources of influence nearer home, laying stress on features of his method which, it is argued, differentiate him from rather than associate him with the current type of political theories. But while direct evidence is lacking, from internal evidence we can, I think, discover indications that may suggest a connection between him and the democratic theories of seventeenth-century Puritan England, which will help to throw light on the peculiarities of the position he was led to take up.

First let us examine those features in Harrington's work

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which have been held to distinguish him from his contemporaries, and then see what positive signs we can discover to link his thought with that of others. Let us begin with the historical method. Now, many political writers have made use of history, but not all have used it well. Some have based their conclusions on a wise interpretation of what history records, but others have argued deductively from preconceived principles, and while making a great show of historical learning, have only gone to history to find examples in support of views already formed. Harrington, it is maintained,[1] belongs to the former (and superior) school, and he disdains to use the Social Contract, the usual weapon of anti-monarchical writers, and the hall-mark of an unhistorical theory. But granting this, Harrington based his work on certain initial fundamental principles as well: "every article of the constitution of Oceana must be judged at the bar of history before its admission"; but, as Gooch says,[2] "he stands fast by the notion of a right reason or natural law", and *Oceana* opens with a defense of the force and value of law against Hobbes, who had denied it. In this, however, he was not alone, for a Law of Nature (as distinct from a theory of Social Contract) was the principle on which the Independents and the Levellers habitually based their political theory, while the Levellers also appealed to history in support of their views.[3] Nor can we altogether acquit Harrington of interpreting history to suit his own purposes: is his account of Moses, for example, to be preferred to the type of historical citation to which Milton and other Puritans had recourse? And he even discovered his favorite theory of the balance of property in the fourth book of the Æneid![4]

Mr. Russell Smith lays particular stress on the superiority of Harrington's treatment of Scripture. Instead of using Biblical

[1] Russell Smith, *op. cit.*, pp. 17, 18; Gooch, *op. cit.*, pp. 251, 252.

[2] Gooch, *op. cit.*, p. 252.

[3] *Cf. Clarke Papers*, vol. I, p. 226 *et seq.* (esp. p. 262 *et seq.*), where it will be seen that in the debates in Cromwell's army in the autumn of 1647 the Levelling speakers (Wildman, etc.) argued on the basis of a Law of Nature, rejecting the Social Contract theory put forward by Ireton.

[4] Russell Smith, *op. cit.*, p. 8.

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parallels in the illogical manner common to both Royalists and Puritans of the time, he treats the Old Testament frankly as a history of the Jewish Commonwealth, and subjects it to the same historical method of inquiry as he applied to secular history; but even so, we are told, "Jewish history . . . . was with Harrington subordinate to both classical and modern history."[1] Harrington certainly makes great use of classical history, but one might remark incidentally that there is nothing peculiar in this: Milton's political work is an obvious example to the contrary, and Hobbes realized that classical studies had a dangerous tendency to breed hatred of tyrants; the Levellers among many others reasoned from classical history, and the pamphlet entitled *Killing no Murder* is an instance in which it plays an important part.

But Mr. Russell Smith's dictum about Harrington's attitude to Scripture is particularly difficult to accept. Certainly he is comparatively free from the absurd misuse of isolated texts, such as those about the two swords, or the rendering unto Caesar, or the monarchy of Saul and Melchisedec, which some writers habitually employed, but he evidently regarded Scriptural authority for his principles as of not subordinate but cardinal importance. It is true that of mere space in *Oceana* itself[2] he devotes considerably more to secular than to Jewish history, but it is noteworthy that he invariably makes the practice of the Jewish Commonwealth the first support of every theory he brings forward, while examples from secular history come second. Jewish history, in fact, was not for Harrington on the same footing as any ordinary history: it had a divine authority, and in support of his contention that he has "transcrib'd these Principles of a Commonwealth out of Nature", he appeals "to God and to the World. To God in the Fabric of the Commonwealth of *Israel*: and to the World in the universal Series of antient Prudence."[3] Furthermore, when

[1] *Ibid.*, pp. 20, 21.

[2] One should observe, on the other hand, the amount of space he devoted to the constitutions of the Jews and the Christian Church in the works he wrote later to justify and defend the theories expounded in *Oceana*.

[3] *Works*, p. 49.

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he comes to deal with secular history, he feels bound to justify his use of it at all: Moses followed the advice of Jethro the Midianite, a heathen, and this he considers "a sufficient warrant even from God himself who confirm'd them, to make farther use of human Prudence . . . , whether in Heathen Commonwealths or others."[1]

What are we to think of such a view of history as this? At any rate it is not an impartial one; rather, it suggests the attitude to the world that was characteristic of Puritanism. In *The Prerogative of Popular Government,* published two years later in answer to criticisms of *Oceana,* he says that "the true end of [Government] is that the Will of God may be *don in Earth as it is in Heaven*".[2] Further on in the same work he rejects the rule of a feudal aristocracy, introduced by the Goths and Vandals, and the monarchical principles of "humble and learned Mahomet or Ottoman, in whose only Model the Perfection of the *Babylonian, Persian, Egyptian* Policy is consummated", and asks whether the world should not be governed according to the "Policy . . . . instituted by God or Moses in the Commonwealth of Israel", or in other words (in the light of the maxim *vox populi vox Dei*) by a popular constitution.[3] At the end of *Political Aphorisms*[4] he tells us that "the highest earthly Felicity that a People can ask, or God can give, is an equal and well order'd Commonwealth. Such a one among the *Israelites,* was the Reign of God; and such a one . . . . may be among *Christians* the Reign of Christ". This was one of the fundamental ideals of seventeenth-century English Puritanism in politics.

We have no grounds, then, for supposing that Harrington was in any way cut off from the current thought of Puritan England:[5] on the contrary, there are further indications to be found showing that he shared the Puritan outlook himself.

[1] *Ibid.,* p. 51.

[2] *Ibid.,* p. 230.

[3] *Ibid.,* pp. 230, 237, 240, 243, 244.

[4] *Ibid.,* p. 523.

[5] I cannot understand Gooch's statement (*op. cit.,* p. 249, note 4) that "a markedly secular spirit may be noticed throughout his works."

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He speaks of Moses, having founded "a University laid in the Tabernacle, and finish'd in the Temple, [which] became that Pinacle from whence . . . all the Learning in the world has taken wing",[1] and he tells us that there was "scarce anything" that seemed to him "so strange as that . . . there should not be a Man . . . that so much as offer'd to bring the House to the Scripture, wherein, as has bin shewn, is contain'd that Original, whereof all the rest of the Commonwealths seem to be Copys."[2] It would, perhaps, be hardly fair to attach much importance to the anecdote told by Toland, of how when Harrington was on a visit to Rome he and several others went to see the Pope consecrate the wax-lights at Candlemas, but he alone refused to kiss the Pope's toe,[3] though such conduct is just what one might expect of a man of Puritan leanings.

Beyond this, moreover, we can find internal evidence which suggests that he was not only a Puritan but an Independent. Several times over he goes out of his way to explain with emphasis that the translators of the English Bible were wrong in translating the word *Ecclesia* as Church. "Anciently and properly", he explains, the word was "us'd for the Civil Congregations or Assemblys of the People in *Athens, Lacedemon,* and *Ephesus*"; the translators' error, therefore, was "not much as I conceive to their commendation, seeing by that means they have lost us a good Lesson, the Apostles borrowing that name for their spiritual Congregations, to the end that we might see they intended the Government of the Church to be Democratical or Popular."[4] Later on he refers (with capital letters) to "our present right of GATHER'D CONGREGATIONS",[5] and the Lord Archon, in the course of a speech to the Council, alludes to the error of the Presbyterians, who "would have the Government of the Church to be Aristocratical: Tho the Apostles, to the end, as I conceive, that they might give no occasion to such a mistake, but shew that they intended the

[1] *Works,* p. 178.

[2] *Ibid.,* p. 76.

[3] *Ibid.,* p. xv.

[4] *Ibid.,* p. 49.

[5] *Ibid.,* p. 59; the phrase occurs also on p. 88.

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Government of the Church to be popular, *ordain'd Elders . . . by the holding up of hands* (or free Suffrage of the People) *in every Congregation or Ecclesia:* for that is the word in the Original, being borrow'd from the civil Congregations of the People in Athens and Lacedemon . . . ; and the word for holding up of hands in the Text, is also the very same, which signify'd the Suffrage of the People in Athens, χειροτονήσαντες . . . ."[1] At least four times he declares that properly a congregation should elect its own minister, as had been the practice in Apostolic times, and he points out the risks of using a faulty translation of Scripture and mistaking its true sense.[2] In the ideal constitution of Oceana "the Parochial Congregation elects or ordains its own Pastor",[3] and part of the 19th Order lays down that no "gather'd Congregation" should "be molested or interrupted in their way of Worship (being neither Jewish nor Idolatrous) but vigilantly and vigorously protected in the Injoyment, Practice and Profession of the same."[4] He condemns episcopacy as a pillar of monarchy,[5] and speaks with contempt of being engaged "to believe no otherwise than is believ'd by my Lord Bishop, or Goodman Presbyter,"[6] while in the pamphlet called *Pian Piano* he alludes slightingly to "your Congregations . . . . that will use none other than the Common-prayer."[7]

It would seem, then, that Harrington's thought, and especially his attitude to the Bible and Biblical history, was not only in consonance with contemporary Puritanism, but corresponded with many of the ideas of the Independents, and indeed of the Levellers, politically the left wing of the Puritans, and the most

[1] *Ibid.*, p. 138; *cf.* also his pamphlet *The Prerogative of Popular Government*, half of which is devoted to an expansion of the same line of argument.

[2] *Ibid.*, p. 88; and besides the passages already cited *cf.* p. 418, where he complains of the way in which "our Translators throout the Bible have don what they could against Popular Government."

[3] *Ibid.*, p. 181.

[4] *Ibid.*, p. 127.

[5] *Ibid.*, p. 380; *cf.* p. 507.

[6] *Ibid.*, p. 59.

[7] *Ibid.*, p. 565, at the conclusion of a further restatement of his favorite argument about the meaning of ἐκκλησία and χειροτονία.

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ready to carry into effect the implications of their principles. Other elements in Harrington's theory may also be traced to the same source. Mr. Russell Smith[1] suggests that his agrarian principle[2] may well have owed something to the sect of Diggers, and this is most probably true. Harrington, in fact, quotes[3] "a late writing" asserting that before the Norman Conquest burgesses had been popularly elected, and this notion, that the Norman kings had imposed servitude on a previously free people, while adopted by the Diggers, was also held outside that peculiar little community, and was a favorite one with Levelling thinkers in the seventeenth century.[4] Along with the agrarian principle goes the device by which it was to be introduced in Oceana, and this also can be traced to a similar origin. Mr. Russell Smith alludes to pamphlets that had appeared twenty years earlier, advocating the sharing of estates among all the sons of a family;[5] this Harrington adopted, and even the figure £2,000, which was to be the limit to incomes from estates in Oceana, had been suggested previously in Levelling circles, for we read that in October 1647 there was "a spirit of parity walking in the army", and a demand that no nobles should have more than £2,000 a year.[6]

If we may take it as established that Harrington was influenced by the political principles of the Levellers, the origin of the democratic elements in his system is at once clear. But while he shared these opinions, he did not, as did many contemporary Puritans, hold them alone, and so advocate the extreme democracy that would be their logical outcome. He differed from most of the Independents in being of aristocratic

[1] Russell Smith, *op. cit.*, pp. 27-29.

[2] The principle that as political power rested on the possession of land, the size of estates should be limited, in order to prevent inequality of influence.

[3] *Works*, p. 66.

[4] *Cf.* Hare's three pamphlets against "Normanism" in *Harl. Misc.*, vol. VI, pp. 36-42; vol. VIII, pp. 94-106; vol. IX, pp. 90-94.

[5] Russell Smith, *op. cit.*, p. 31. The Levelling spirits in Cromwell's army shared these views: *cf.* Cowlings's enquiry in the debates in the army council in 1647, "whether the younger son have not the same right to the inheritance as the eldest." (*Clarke Papers*, vol. I, p. 316.)

[6] Gardiner, *Great Civil War* (4-vol. ed.), vol. III, p. 370.

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descent, and one of his fundamental principles was his belief in a "natural aristocracy" that would necessarily take the lead in any group of men.[1] It was this which made him so great an admirer of the Venetian constitution, for although in effect it was a close oligarchy, in theory it contained a mixture of aristocratic and democratic elements. The government was divided between the Senate, with its subordinate councils, and the Great Council, while aristocracy was also upheld by a system of indirect elections, and democracy by the use of the ballot. Harrington placed great faith in election as a means of bringing forward the best men for office, for he considered that electors would always choose their natural leaders, and accordingly the more elections there were, the more the cause of aristocracy would be furthered. The Venetian constitution, therefore, appealed to the two prevailing strands in Harrington's thought, and the ideal constitution of Oceana was modeled after this design. The people were divided into fifty "tribes", in which every year an election was held by a body of electors previously chosen in the parishes, and at the tribal elections seven deputies each were chosen for the Assembly, and two knights (i.e. relatively rich men) for the Senate. The Senate alone had the power of making legislative proposals, which the Assembly, without debating, must either accept or reject, and the Senate also had the right of proposing the magistrates, who were to be elected annually by the Assembly. According to Harrington, commonwealths had always been ruined by popular debating, but his principle of "the Senate proposing, the People resolving, and the Magistracy executing",[2] combined with the use of the ballot and of indirect elections, would, he thought, secure a perfect constitution. The Agrarian Law would preserve it from the risk of change, as also would a system of rotation, by which there would be no general elections, but every member both of the Senate and of

[1] *Oceana* (*Works*, p. 47); *cf.* also p. 56, where he says that "there is something first in the making of a Commonwealth, then in the governing of it, and last of all in the leading of its Armies which . . . seems to be peculiar only to the Genius of a Gentleman." A list of historical examples is headed by Moses, on the ground that he "had his education by the Daughter of Pharaoh."

[2] *Oceana*, p. 48.

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the Assembly would sit for three years, one-third of the total membership retiring every year.

Apart from his historical method, and his theories of "natural aristocracy", and of the relation of power to property, it is in this singular blending of democratic and aristocratic principles, rather than in particular suggestions or devices, that Harrington's originality is to be found. Except for minor touches, such as that of the girls and the cake, his ideas, considered individually, were mainly derivative,[1] but it was the work of a highly original mind to combine in one system such apparently contradictory tendencies as those derived from the democracy of English Puritanism and the oligarchy of Venice. It was for this reason that, in England at any rate, his proposals never cut much ice, ingeniously elaborated though they were, for Harrington's doctrinaire mind was more concerned that a system should be correct in theory than workable in practice. His suggestions did not satisfy the radical democrats among the Puritans, nor were the Royalists any more likely to accept them. Though the ultimate solution of the problem of the government of England was to be a kind of compromise, Harrington's constitution was far too involved to be practicable, and few people outside his own Rota club were prepared to take it seriously.[2]

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[1] We ought, however, to remember also his practical proposals for a system of universal and compulsory education under the control of the State (*cf.* Gooch, *op. cit.*, p. 250).

[2] I am much indebted to my former pupil, Mr. A. C. Davies, B.A., who drew my attention to the significance of many of the passages from Harrington's works quoted in this article.

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THE AGRICULTURAL POLICY OF FRANCE II[1]

III

IN these post-war years there has been a good deal of legislation if not much actual provision of funds for aid. In 1926 there were promulgated no less than 96 legislative acts and decrees directly affecting agriculture. There was nothing new or unusual about this: in 1920 there were 87, in 1923 there were 146, and in 1927 there were 125. One way of defining the attitude of the government toward agriculture is by analysis of these official acts. It goes without saying that they are not of equal importance. Some represent departures in policy; but, at the other extreme, many have to do merely with minor changes in the administrative services. Their gross number is, however, one indication that consideration of the problems of the countryside is not entirely neglected by the legislators. A rough classification of the subjects treated in 1926 shows the following numbers: foreign trade in agricultural products (customs regulations, etc.), 21; market regulations, 11; management of the public domain, 8; standards of use for agricultural products, 6; administrative changes, 6; agricultural labor, 5; relations with consultative bodies, 4; credits, 4; plant disease control, 3; special grants of subsidy for particular products (mostly very small and unimportant), 3; taxation, 3; provisions for special investigation, 3; technical training, 2; electrification, 1; rural engineering, 1; rural housing, 1; old age pensions, 1; coöperatives and syndicates, 1. A few, of obviously minor importance, are not classified; and there are not included the provisions of the regular budget measure for the year (presently to be considered) which also dealt with many of the same matters. A scrutiny of the whole list of parliamentary acts and decrees since the war shows about the same emphasis and distribution in each year.[2]

[1] The first part of this article was published in the POLITICAL SCIENCE QUARTERLY for June, 1930, pp. 214-30.

[2] *Les Annuaires internationaux de législation agricole* of the Institut Inter-

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An investigation of this sort is useful only in an introductory way. If what is wanted is to judge the seriousness of the government's effort in any one direction, it is at once necessary to study the annual budgets: it is in these that the actual funds provided are listed and explained. Especially, the *Rapport* made to the Chamber of Deputies by the latter's Finance Commission on the appropriations for each ministry, before passage of the budget, is likely to be full and informative. The budgets may not actually be passed in the form in which they are presented, but this can be checked by reference to the *Journal Officiel* which prints the budget as passed. Since the war, except for extraordinary proposals, the budget for the Ministry of Agriculture has usually been accepted without major changes in the amounts appropriated. Failure to accept the government's proposals might precipitate a ministerial crisis, and they are therefore prepared with an eye to their probable acceptance without too disturbing debate. The foregoing tabulation, however, does show that, aside from the positive appropriations of the budget, considerable reliance is placed on customs and market regulations. Indeed, as we shall see, it is mainly through these and through the management of the tax burden that agriculture is affected by state control. First, however, we may examine the budget situation.

It will be sufficient, for an assessment of current policy, to analyze three recent budgets and to consider in most detail that of 1927. Those of 1928 and 1929 can then be compared with this as a basic year. In 1927, then, the budget was, in the *Rapport,* divided into three parts,[1] the first two of which were headed "ordinary" and "extraordinary" expenses; the

national d'Agriculture are a convenient source for lists of laws and decrees. These furnish references to the appropriate numbers of official publications such as the complete *Journal Officiel,* in the documentary section of which all laws and decrees are published, and in the parliamentary section of which the discussions preceding their promulgation or passage may be consulted. This publication must always be referred to but it is extraordinarily difficult to use as a primary source because of its awkward arrangement. The Institut at Rome makes a special effort to keep its lists current and accurate, but its references are often too brief to be of use without consulting the official publications.

[1] *No. 3402, Rapport portant fixation du budget général de l'exercice 1927.* Chambre des Députés, 1926. *Journal Officiel,* 19 December 1926.

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third had to do with outlays involved specifically in repairing the damages of the war. This last, involving two and a half million francs, is not of particular interest here and may be neglected except for remarking the persistence of the war burden in agriculture as in other departments of French life even after years of steady effort and expenditure upon the achieving of recovery. Among the so-called "extraordinary" expenses two items are of interest: five millions for assistance to agricultural syndicates in buying fertilizer; and five hundred thousand for the purchase of new forest lands. The policy of assistance in buying fertilizer was established in 1925;[1] in 1926 the budget allowed nine millions for this purpose. But the relation of the State to this means of maintaining fertility is very old. For many years supervision and inspection of the chemical fertilizer trade has been maintained. This interference first arose through the ease with which fraud and adulteration could be and were practised in so highly technical a trade when consumers were unprotected by any fixed standards. Control grew finally into the establishment of a governmental manufacturing plant which has been run for years with general satisfaction. The simultaneous manufacture of this product and the provision of credits to consumers with which to buy it, suggest a faint resemblance to more elaborate arrangements of this sort in Soviet Russia.[2] But it is far from being a significant indicator of the general trend of French policy. It shows, certainly, a lack of theoretical bias against State intervention when there is an obvious and practical case to be made for it; but it cannot be taken as the beginning of any elaborated policy. Logically, one might expect the government to proceed to make machinery, grow seeds, breed animals, and perhaps furnish building materials to farmers, arranging their distribution through the provision of credits in the appropriate amounts. But such a logical conclusion would be false. There is no evidence of any such further intention.

[1] It will be noticed that this assistance is extended *through syndicates*, which is in itself important and which will be commented on in a later section.

[2] Referred to in the author's article, "Agriculture", in *Russia in the Second Decade*, 1928.

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The item which has to do with the purchase of new forest land represents also the continuation of old policy.[1] European hills, most of them, have been cultivated so long that even the hard-working peasant with extremely modest expectations of return can no longer raise a profitable crop on them. The soil has gone down the valleys to the sea. They ought, of course, always to have remained forested; for forests, even on mountainsides, will manufacture soil as fast, or nearly so, as it is likely to be eroded. Some part of the vast damage already done can be repaired by taking these areas into the public domain and replanting the trees which may have disappeared centuries before. France, in the South and East, illustrates this perfectly: a region of alternating droughts and torrential rain storms. Especially along the shores of the Mediterranean, where the Maritime Alps come almost down to the sea, the mountains can be ascended on roads as old as the Roman occupation, along the shoulders of hills on which there were terraces even then to hold the soil; this is one of the most elaborate and costly provisions of land space to be found anywhere in the world. The expense could only have been met by the provision of a little of the work in each of many generations. But it has ultimately come to nothing — from the national point of view, worse than nothing, for it has contributed to a devastation which is already complete at the upper levels and shows itself now at those which are lower. Even stone terraces could not, under bare cultivation, hold the soil in ten, twenty, or thirty foot strips. The upper regions are an object lesson in the cultivation of hillsoils which he who runs may read. Vast systems of stonework, built in an unrecorded past and now abandoned, are there merging into the rocky faces of the mountains, bare now of even the smallest grain of silt. Where human enterprise has gone so far and lasted so long a time there is no chance of reclamation; the

[1] Just here attention must be directed to a fact that will be seen to be of importance later. Not all countries manage the public domain through the agricultural services. This seems as good a way as any to group the government's functions with relation to the land and its resources; but the difference in practice is likely to make for confusion in comparing the work of these departments in various countries or in estimating relative expenditures.

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hardiest bush can find no foothold. But there are immense areas in earlier stages of disintegration which can yet be saved by reforesting. France is behind her neighbors in this activity; yet she does something each year.

These items are, in themselves, interesting; but that division of the budget which has to do with ordinary expenses is more significant for our present purposes. In it there are 109 items roughly classifiable as follows:[1]

1. Expenses of personnel, including administration, schools, inspection, etc., 85,000,000 francs.
2. Encouragements to agriculture, 3,000,000 francs.[2]
3. Expenses of the agricultural offices of the *départements,* and of demonstration farms, 12,700,000 francs.[3]
4. Subvention of the silk-worm producers, 2,400,000 francs.[4]

[1] This is the author's translation and grouping; none is made in the *Rapport.* It is impossible to make these figures more than roughly accurate. In many items leeway is, at the time of adoption, deliberately left for extraordinary expenditures of undetermined amount; and usually, at the end of the fiscal year, excess expenditure for many items is regularized by a supplemental budget.

[2] This includes contributions toward the expenses of congresses and meetings of farmers and farm experts, small subventions of syndicates of cow-, poultry-, and swine-producers for maintaining herd-books, etc.

[3] This item really deserves more detailed analysis than can be allowed here (see pp. 180 *et seq.* of the *Rapport*). Such an analysis would show the allowance to each département (or county) of credits under the following heads: vegetable production (seed selection, new cultures, fertilizer, insect control, departmental meetings, tool demonstration, and experimentation); animal production (experiments in breeding, breeders' shows, demonstration meetings, etc.); social improvement of rural life (encouraging the improvement of working conditions, housing, etc.). Also it would show the relation of this system of departmental offices to agriculture in general and to the State. These offices are, themselves, a relatively new departure. They were set up by law in 1919, but only recently have got their work under way. They are intended eventually as instruments for carrying out the State's policies in the various localities. Investigation revealed great differences in efficiency; but they are roughly comparable to the county farm agents in America so far as their assistances to farmers go.

[4] Of this item a note to the budget remarks sadly that, in spite of annual help from the State since 1892, production has each year diminished because of the falling price of silk. The introduction of artificial silk is affecting this industry

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5. For the electrification of rural communes and for engineering studies in connection with this work, 71,000,000 francs.[1]

6. For reforestation, the control of waters, fisheries, forests, etc., 92,802,500 francs.[2]

7. For the control of bread-cereal markets, 1,500,000 francs.[3]

8. Subvention of mutual insurance societies, 3,000,000 francs.

9. Subvention of accident insurance societies, 2,200,000 francs.[4]

10. For veterinary inspection and schools, 7,000,000 francs.

just as synthetic scents are affecting the old perfume industry in the départements of Provence. It seems almost certainly doomed, yet the subventions have been kept up, and in this year they were considerably increased and for a characteristic reason: The commission "a été guidée dans sa délibération par le souci de venir en aide aux populations paysannes les plus pauvres, travaillant dans les conditions les plus difficiles, par conséquent dignes d'intérêt et qui constituent, pour notre race, par leur vigueur et leur puissance de résistance, une réserve de force et de santé."

[1] The size of this item is its own indication of the importance attached to electrification. It will be commented on later.

[2] This is in addition to the item already noted under "extraordinary expenses" for the acquisition of lands to be added to the public domain. The total figure indicated in this item, however, amounting to almost ninety-three millions of francs, includes some ten millions allocated for the purposes of "acquisitions" and reforesting and certain special appropriations for work in Alsace and Lorraine.

[3] The story of government adventures into this market would make, in itself, a formidable history. The importance of bread in the French diet is very much greater than in that of America; and there is consequent upon its importance an acute resentment when the price is raised. Bread and wine have been those products which have most often had their prices under supervision, especially during and since the war. As time goes on a notable tendency to relax supervision of prices is noticeable; there is, however, in both these markets an elaborate system of grading and inspection, more or less actively enforced, which requires a considerable personnel.

[4] The attempt to develop a system of mutual insurance associations will be referred to again later. It goes hand in hand with the growth of coöperatives in other fields of agricultural organization. The government subsidy is presumably of a temporary character and is provided for the purpose of furnishing an initial momentum.

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11. For research in agronomy, 6,000,000 francs.[1]

A comparison of the budget for 1927 with that for 1928 shows that the latter carried requests for increases which, when the budget had passed, totaled some 110 million francs. This was explained in the *Rapport*[2] as expenditure needed for putting into operation a plan for the general intensification of production. The scheme for a great and quick expansion of the services of the state had, temporarily at least, been abandoned in favor of pressure for modest additions to the budgets of each year. An examination of the items, however, shows no startling changes in policy. Certain of the instruments already in use were to be expanded; but no new ones were contemplated. This can be seen by looking at the items which were increased over the year 1927:

1. For further winter courses and extension work in agriculture, 2,000,000 francs.[3]

[1] This amount should be increased by the sum received from the share of the State's profits in the pari-mutuel betting machines installed at the French race courses. By a law of 1920 one-half of one per cent of these receipts was allocated to the Institut National Agronomique in Paris. This sum has been sufficient to rebuild almost completely this old institution and to give it new vigor. Besides this institution in Paris which furnishes so many of the experts for many government services as well as to the industries allied to agriculture, there are three other national schools—at Montpellier, Rennes and Grignon. A short résumé of agricultural education and of the relations among the various educational and research institutions of France may be found in an article by Georges Wery, "L'Institut National Agronomique", in the *Revue des Deux Mondes,* 15 May 1929, p. 418. The article is too complimentary, however, to agricultural education in France. In reality the numbers of students involved are relatively few, the provision of plant restricted, and funds always scant. But there are signs of progress such as the rebuilding in Paris and the recent expansion at Montpellier. This latter institution, which cares for the whole South, however, has only about 150 students; that at Paris has never yet reached an enrolment of 100 though it hopes soon to do so. One advantage of this restriction is, of course, that only well qualified students are admitted, and a very high quality of work is done.

[2] *Rapport portant fixation du budget général de l'exercice 1928,* and *Journal Officiel,* 28 December, 1927.

[3] This is an idea which seems to have been borrowed from America. At least it is reminiscent of a very large and successful movement among our state schools. Whether or not it was actually borrowed from us it was difficult to establish. The same thing is true of the départemental system of agricultural

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2. For research and experiment with the purpose of increasing wheat and rye yields, 6,000,000 francs.[1]

3. For defense against vegetable diseases, 2,264,000 francs.

4. For the campaign to electrify the country, 100,000,000 francs.

5. For engineering studies in furtherance of "rural rationalization", 32,000,000 francs.

6. For the acquisition of bare and uncultivated lands for forest purposes and for reforestation, 11,000,000 francs.

The other items in this budget were continued on much the same basis as in the preceding year: there were still appropriations for demonstration farms, for plant and animal research, for education, for the départemental offices, for subvention of the new mutual insurance societies, and grants for engineering works already begun. The total budget amounted to 381,000,000 francs.[2]

The budget for 1929 was, by a similar expansion, made somewhat more generous to agriculture. The total for its 118 items amounted to just under 500,000,000 francs, an increase of more than 100,000,000 francs over the preceding year.[3]

offices which is very like our County Farm Bureau systems. These in France are direct national enterprises, and ours, of course, are characteristically mixed—federal, state and private.

[1] The extraordinary persistence of the determination to maintain a large production of wheat in France is responsible for this item. It has been noticed above that acreages have consistently declined; it is now hoped not only to check the decline of acreage but to increase yields, so that all dependence on foreign wheat may be eliminated. Of all the policies of France, this is perhaps the most clearly wrong-headed. Not only does self-sufficiency break down in genuine crises when it might be of use, but there is maintained a very costly practice which is a steady drain on the resources of the soil. Two sentiments reinforce it: that for an independent France, and that of the traditional fondness of the peasant for the culture of *blé*, or wheat, the main food still of peasant and workman.

[2] Supplementary validating acts authorized expenditure of about ten per cent in excess of this. As was explained before, this happens regularly.

[3] *Rapport portant fixation du budget général de l'exercice 1929*, and *Journal Officiel*, 31 December 1928.

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Analysis of the budget itself shows, again, a general expansion of activity in the recognized directions rather than any new departures in policy. Roughly the same proportions are allotted to education, experiment and the other familiar items we have seen to have been included in the preceding measures.[1] The conclusion one might reach from studying these budgets would be that the main lines of contemplated development are now laid down and that there are unlikely to be, in the near future, any changes of importance. It might also be fairly concluded, however, that there is likely to be further expansion as national burdens lighten. Increased allowances in the past few years, though not large enough to be remarkable, point to gradually increased generosity. Certainly as the war and its immediate burdens retreat in time, there will be more leeway for expenditures on internal development; and though this process cannot perhaps be rapid, agriculture, if what we have concluded about the national interest in its arts is true, seems likely to share at least proportionately in any expansion. New expenditures, however, will be authorized cautiously: the burden of taxation is immense, and among other immediate problems of any government there must figure this one of ways to reduce the drain on private incomes. Furthermore France has heavy foreign obligations to meet, of a size which has so far prevented the formulation of any practical plan for payment. Among others there is the unfortunate debt to the United States for the war material purchased and sold at a heavy loss, with no sinking-fund provision at all. And this is only an addition to her war debt to England and the United States. There appears to be at least a decade ahead during which no hardy schemes of reconstruction can be borne by a budget which must first of all include provision for these external obligations. Yet it seems not impossible that something of genuine importance to agriculture may be done.

[1] The most notable changes were (1) an increase in the "electrification of the country" item to 150,000,000 francs with another 35,000,000 for other rural engineering projects; (2) an increase of the "reforestation" items by about 1,000,000 francs; (3) an increase of "encouragements to the silk industry" to 9,000,000 francs; (4) slight increases for agricultural schools and courses, for statistical services, and for mutual insurance societies.

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There is something of the paradoxical in saying that France is prosperous; but in a sense it is true. She has little or no unemployment, her currency is stable, price levels are relatively low, production is everywhere increasing. Budget surpluses are certain within the next few years. She may use them to pay her foreign and internal obligations and to reduce taxes; indeed these must be their main uses. But the internal services may soon be receiving more generous treatment. And the general awakening of the French to agricultural depression may cause a certain considerable attempt at assistance.

IV

In order to obtain something of a more general view of the emphasis on agriculture in the budget, the agricultural allowances for 1929 may be compared with those for other services and departments. Following is a general statistical picture of expenditures (in francs):

For service of the public debt	22,126,530,175
For the public services	91,090,000
For the general ministerial services	21,204,906,418
For the cost of collections, controls etc. of customs and taxes	1,332,850,410
For reimbursements, restitutions, etc.	607,753,500
	45,363,130,503

An item for agriculture of 500,000,000 francs does not seem to be a very large percentage of 45,000,000,000. The allowances for many other departments were far larger. The largest sum, 25 billions, for the Ministry of Finance, includes, however, the service on the immense public debt.[1] Comparisons of this kind are not too profitable; but some light is thrown on French policy as a whole by comparing the item for agriculture with that for war, which is ten times larger; that for the navy, which is five times larger; or for aviation, which is three times larger. Only two other ministries, in fact, have allowances as small: Justice, and Commerce and Industry.

[1] Over 22 billions, as noted above. The other three billions are spent for personnel.

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This last is very small—about fifty millions—and if it is true that this is the only allowance in the budget which is reasonably to be compared with that for agriculture, then agriculture is receiving not exceptionally bad but extraordinarily good treatment.

There is a good deal more to be said in this connection. It can be argued that industrial reconstruction has been, and still is, coming from other sources not available to agriculture—notably reparations and war profits. Governmental assistance is needed in the one instance in a sense in which it is not in the other. It can also be argued that budgetary assistance is not more important than favorable treatment of other kinds of which industry has had more than its share—protection from competition by tariffs for instance. As to lack of profits in agriculture during or before the war, no really good evidence exists. As long ago as 1912 the Ministry of Agriculture attempted to discover the current facts, but without great success.[1] A great deal depends, in such an inquiry, on the point at which profits are conceived to begin. If nothing is profit until the farm-operator has been paid for his labor and that of his family on a scale comparable with urban wage rates, there is very little agricultural profit anywhere in the world. No national system will stand that test. There will be found here and there unusually successful units, perhaps whole regions which enjoy temporary prosperity; but high long-run profits, as a whole, do not exist in France any more than elsewhere. This does not mean that French farmers have been unable to make a living. There has been no starvation in rural districts; but there has been no such rise in the standard of living, either, as there has been among the industrial workers. The way to discover the long-run profits of agriculture, especially in a country of small proprietorships such as France is, is to study the standard of living. Profits will ultimately be reflected there. There is no available way of

[1] M. Auge-Laribe, in *Le Paysan français après la guerre,* refers to this investigation and discusses the question of profitlessness. What he has to say on this subject can be found there in the chapter headed "L'Agriculture à la Veille de la Guerre", especially p. 38 *et seq.*

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doing this, in the present state of French statistical resources, except by simple observation. But there seems to be general agreement among observers that, although the countryside cannot be said to have lowered its customary standards, and has even made gains in some directions, it has not gone forward as the city workers have by a large margin. We may be able to approach this problem again from another angle; but for one who has recently lived in France and has taken some pains to understand the contemporary situation, observation is more conclusive than statistics. The countryside is undergoing no such change as is going on throughout industry; standards of living are rising somewhat, but the gain is notably less in the rural regions than in the cities.

It would perhaps be an exaggeration to say that in the past few decades agriculture has been remunerating its workers and its proprietors out of capital. But all the small external evidences seem to point to some such conclusion. Fewer replacements of buildings, fences and other equipment are being made than would seem necessary. Equipment of this sort handed down from other generations is being used without much improvement. Machines are not being introduced with rapidity even where they might contribute greatly to efficiency. But even if capital is not being eaten into it is not being rapidly built up. There cannot be the slightest doubt for anyone with even a casual knowledge of France during the last decade, that the contrast between rural and urban progress in productive methods and in standards of living is growing more pronounced as the years pass. This is the excuse which is urged by agriculturalists for governmental interference and for special budgetary treatment. As to the fact of relative lack of progress, there seems to be no dissent anywhere in France.

It is in discussions of drastic action to redress the balance that differences of opinion appear. In the construction of the annual budgets these contrasts come out most clearly. It is, perhaps, true, as those argue who would like to see the budget allowance increased, that it is unfair to assume generous treatment on the part of the government by citing budgetary facts alone, for exterior circumstances have also to be taken into

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account. It seems hardly worth while to argue this point further here.

It is important, however, to note that the allowance actually made in the budget cannot be taken at anything like its face value. Some, at least, of the detailed items might well have appeared under other headings than that of agriculture. More than a fifth of the 1929 allowance is to be used for "electrification of the country". This is not entirely for the introduction of current into farm homes or for use in farm operations. It is for "the extension of power lines in rural communes", which also include villages, or even small cities; and the current is not to be supplied free by the concessionaires by any means. It may well be a worthy enterprise for the government to assist in the extension of electrification; but it is hardly more correctly chargeable to the agricultural budget than expenditures for national or départemental roads would be. Detailed analysis would show other similar difficulties, some of which have already been noted. Some thirty millions of francs for stud-farms, for instance, is largely a military provision, and would more correctly appear as an expense of the war ministry. On the whole not less than twenty-five per cent would certainly need to be deducted from the apparent size of the budget to arrive at an actual figure of expenditure for purposes having directly to do with the furtherance of agriculture.

For this and other reasons it is difficult to arrive at a defensible figure for the percentage relationship which these expenditures bear to the total expenditures of the government. But a total of less than one per cent would certainly be arrived at by any selective examination.[1]

On the face of things this seems small. And this seeming inadequacy does not disappear when comparison is made with similar percentage relationships in other countries. Belgium,

[1] In 1925 M. Auge-Laribe concluded that the percentage was much lower than this—.43 per cent. The citation occurs on p. 158 of *Syndicats et coopératives agricoles*. It seems probable that this was arrived at by rigid deduction of all extraneous credits from the budget. It is also true, however, that the percentage was considerably lower a few years ago than at present because of the static nature of the single largest item in the total budget, the service on the debt.

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a near neighbor, appears to spend about 2.35 per cent on agriculture. Similar figures for other countries are: United States 2.05; Canada 1.68; Denmark 4.67; Great Britain 1.69; Switzerland 4:30; Italy .47.[1]

Making allowance for statistical difficulties of various sorts, especially the difficulty of determining those expenditures which really affect agriculture and those which do not, some considerable margin of error would have to be admitted to exist in these comparative figures. But even with a generous allowance of this sort, French expenditures are clearly below those of every country for which figures are available—except Italy. In many cases they are far below. The fairest comparisons are with her neighbors. And here, if she ranks above Italy, her percentage is only half that of Belgium and a quarter that of Denmark or Switzerland; it is also half that of the United States and far below that of Great Britain or of Canada.

Just what these comparative figures for budgets mean it is difficult to say with precision, even admitting an accuracy which, in reality, they do not have. In these post-war years, when the budgets of most nations are loaded with inevitable expenditures for debt service, their relative meanings are partially vitiated. The nation with the largest total of debt would naturally show a comparatively small percentage of expenditure on all current services including agriculture. This is one reason, certainly, why Denmark, Switzerland, and some others show up well in such a comparison; and it is one reason why France shows up badly. It would be safer to compare by deflating all the budgets (subtracting extraneous items from agricultural allowances, since in these days most countries seem to like to hide military expenditures, particularly, in purely peaceable items) and dividing the amounts by the relative

[1] These figures for other countries are from a *Tableau des dépenses affectées à l'agriculture par les administrations centrales et locales dans quelques pays* of the Institut International d'Agriculture and have not yet been published. They are yet subject to some correction but represent the current situation within an undetermined margin of error. They are incomplete, however, in another sense, which is that they make no attempt to analyze critically the official representations of various agricultural ministries. It is an invariable policy of the Institut not to go behind the official reports which come to them.

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populations, or, perhaps, by the number of farm holdings. Such figures, however, have never been gathered; and those which exist must be taken for what they are worth. In any case the present evidence is sufficient basis for saying that the position of France in this respect is something less than mediocre. There has, evidently, been a good deal of good will, even of favorable talk; but it has somehow failed to register in actual provision of funds.

V

It has already been noted in passing that agriculture might be affected even more by manipulation of the tariffs than by all the funds which could be provided in the budget. The one might provide some assistance, mostly in indirect ways; but the other has the power to raise or lower the prices of nearly all the products of French farming. Whether we think of wheat, butter, meat, fruits or wine, there are neighboring countries who are quite willing to supply the French market; and in the provision of many items—such as wheat and meat—far-off countries, Australia, Canada, Argentina, are always ready to compete. It is only in the specialty markets that France is supreme; in all the others there is a world competition to meet. And much of it comes from new countries with relatively low-priced land and an extensive, mechanized farming system. So long as national policy demands that the cereal and meat markets must be supplied by domestic producers, it will be necessary to check imports and to raise their prices by tariffs. But such a policy can be steady or vacillating; it can favor producers at one time and consumers at another, as legislators are torn between the two simultaneous but inconsistent desires to maintain high prices for farmers and low ones for consumers. If behavior is of this sort, farmers will have legitimate cause for complaint. Policy ought to be of one sort or the other. Either France is a nation of gardeners and specialty farmers, or she is expected to keep up the production of cereals. The two are incompatible and require entirely different governmental attitudes. What these atti-

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tudes are can be determined better by a study of tariff arrangements than in any other way.

Until the war, the basic customs law was that of 1892, as modified at various times, notably in 1910. But, however much it might be modified, it was always clearly intended to be protective. The French market for everything was to be reserved for French producers if any existed. But this system was somewhat modified by adherence to a most-favored-nation policy which was embodied in a series of commercial treaties. During the war this system was abolished and Parliament handed over to the administrative officials the business of making duties. In this, as in other activities, everything was subordinated to the prosecution of the war. In 1917 restriction went so far as to prohibit entry of all goods bought for private trade. Some exceptions were made by decree; but as late as January 1919 the decree of 1917 was ratified. Later in the year, however, most of the prohibitions against importation were raised, especially in the cases of food products, raw materials and semi-finished goods. But all this restriction was not meant to assist farmers by conserving their markets for them; it was rather to close markets and to bring them under the control of the war administration, to reduce the use of luxuries and to regulate the price of necessities.[1] On the other hand, and obviously because of the critical rise in prices, there was begun in 1919 a series of prohibitions against export. It was at this time that the series of coefficients of increase, applicable to the basic duties of 1910, was adopted for use. As the value of the franc fell, the government could, without waiting to modify the tariff structure, simply and quickly change the coefficient by which the basic duties were to be increased or lowered. They were mostly increased. Indeed, in March 1921 nearly the whole list of coefficients was raised to a point at which the level amounted to four times that of the pre-war tariffs—in paper francs. The commercial treaties which had

[1] For specific acts relating to agriculture consult the *Annuaire* of the Institut International which was cited above. For a historical treatment of the situation down to 1927 consult *La Politique douanière des trois principaux états européens et celle de la Société des Nations* (1928) by A. C. Pilavachi.

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been abrogated in 1918 were revived in many cases about this time in one form or another; but Parliament also took back its tariff-making powers from the executive branch. From 1923 to 1928 there was little change. In 1927, however, a new policy was projected. Protection was to be kept as a fixed policy; but it was proposed that the rapid changes and uncertainties of the war and post-war years should be superseded by a series of new treaties intended to stabilize the situation. A new tariff law was drawn up enumerating 1,750 articles in place of the 654 of the 1892 schedules.[1]

What is of interest here, of course, is the treatment of agriculture. During the war and post-war years the vagaries of revision reveal no permanent policy. The exigencies of the moment were dominant. By 1925, however, enough stability was reached so that an examination of the situation in that year and later will disclose something of policy.

An examination of the 654 schedules in force at that time (1925)[2] shows coefficients ranging up to 10—which means that the basic tariffs of 1910 were multiplied by that figure. The highest were applicable to articles of a finished sort which might have competed with the French luxury trades. But throughout the lists of semi-finished or finished manufactured goods the coefficients ranged mostly between 3 and 7. There is a noticeable difference in farm products. The only general group of these which had coefficients at all were the cereals, which were mostly multiplied by two. Animal products, fruits[3] and seeds, wool, vegetables and vegetable products, mostly came in on the same conditions as before the war.[4] Cotton and lumber remained on the free list. Here it is clear that the products of agriculture were treated quite differently from the products of other industries. Besides this, there were 23 articles on which *export* duties were levied; of these 21 were farm products. They included such articles as poultry,

[1] As yet this new policy has not emerged from the discussion stage.

[2] *Bulletin international des douanes,* Bureau International des Tarifs Douaniers, Brussels, Belgium (5th edition and supplementary numbers).

[3] Except apples and figs.

[4] Except sugar (coefficient 2.5) and wines (coefficient 3).

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salted meats, hides, animal fats, eggs, cheese, butter, dried fruits, lumber and fresh vegetables—all important.[1]

This unequal treatment did not go unnoticed. The agricultural societies were loud in their denunciations. M. P. Caziot, M. Auge-Laribe, M. de Monicault and others explored the situation again and again. In the *Revue d'Économie Politique,* which each year publishes a general review of economic conditions, M. Auge-Laribe, who is entrusted with the agricultural résumé, has repeatedly called attention to this curiously persistent customs policy. In 1925[2] his article said:

> On the 6th of January 1924, profiting by the absence of the Chambers, which had recently recessed, M. H. Chéron signed a decree reducing by half the duty on wheat. M. Queuille has opened our frontiers to frozen meat and has suppressed the coefficients which had raised the duties on pork products, condensed milk, butter, barley, rice and canned vegetables; for cheeses the coefficients were reduced to 1.7 and 1.5. Numerous orders have been signed by M. Chéron to prohibit agricultural exports (rye, barley, butter, wool, fresh vegetables, meat animals, dried vegetables, etc.). Other orders have established export duties of 10 and 15 per cent, rising finally to 25 per cent *ad valorem* (on horses, cheeses, vegetables, poultry, eggs, milk, butter, animal oils, etc.). M. J. Capus brought back the export duties of 10 and 15 per cent. M. Queuille authorized the export of Roquefort and forbade that of buckwheat.
>
> However, on the 9th of April, without discussion, the duty on Oriental rugs was tripled, and in November a law was proposed which would raise the duties on 300 articles, among which there appeared not one single product of agriculture. Agriculturists have serious motives for demanding "equal tariff."

In 1926 the same author[3] referred again to the situation:

> We live in a protectionist régime; it favors industry at the expense of agriculture. When industrialists saw the efficiency

[1] These export duties were mostly ten per cent. Some were fifteen per cent.

[2] *Revue d'Économie Politique* (1925), p. 426.

[3] *La Situation matérielle et morale des agriculteurs* (Comité National d'Études Sociales et Politiques), p. 13.

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of their protection diminished by the decline of the franc, they obtained, by simple decrees, a multiplication of the old duties by coefficients which were generally 3 to 5 and often 7 to 9, and recently they have obtained a general increase of 30 per cent.[1]

More precision was given to the discussion by a pamphlet issued by the Confédération Nationale des Associations Agricoles[2] in which several hundred items of the proposed law were divided into four classes: agricultural products, semi-finished goods, manufactured goods and agricultural machinery. They were then compared on the basis of the old law and the new one. From this it appears that "industry obtains on the average a protection from five to ten times higher than before the war." Agriculture's coefficients under the proposed new law would amount to a rise of from two to four times the old rates. This would be better, from the agricultural point of view, than the situation which exists at present and much better than that of 1925, with many products forbidden to export and others bearing an an export duty. But agriculturists naturally feel that it would not be good enough. In the period now being entered on considerable controversy may continue to center about this situation.

The matter of tariffs is apparently of great importance in France. It is by their manipulation, as much as by actual budgetary provisions, that governmental policies are carried out. If it seemed apparent that farming was having none the best of it so far as budgets were concerned, in post-war years, and continuing to the present, it seems also that tariffs are regulated in some other interest than that of the peasant. One of the most embarrassing and difficult problems of the French government is raised to view here. We have seen that agriculture in France is a vocal profession, that statesmen and others on every possible occasion declare themselves as protectors of peasant rights. But there are other influences even

[1] See also similar statements by the same author in the *Revue d'Économie Politique* for 1926, p. 553 *et seq.*, and for 1929, p. 519 *et seq.*

[2] In February 1927: *"La Nouvelle loi douanière: Va-t-elle consacrer le déchéance de notre agriculture?"*

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closer to the government, or at least to most of its functionaries. The industrialists have favors to grant, they have full treasuries and capable lobbyists. And, although it has not become permissible in France, as it has in the United States, for legislators to appear as the devoted servants of business interests, the fact that the population has been increasingly devoting itself to industrial occupations at the expense of those of agriculture is not without effect.[1] But favors to a *nouveau riche* industrial régime which shows many of the ruthless, secretive and piratical traits which were more common in America fifty years ago, at the beginning of our devotion to mass production, than they are now, are not the only impulses which operate against the more traditional interests of the peasants.

There are also consumers to be considered. And if there is a class which commands more respect from politicians than the peasants, it is the bourgeoisie. "*La vie chère*" is a problem which among the careful housewives of France occupies a more considerable place than in America. If the French peasants as producers are characteristically painstaking, conservative and disinclined to take risks, these same traits are exhibited in even more exaggerated form among the peasants as consumers and among the large numbers of middle-class families from which so many *fonctionnaires* and professional men are recruited. Thrift needs no propaganda in France. Careful consumption rises almost to the picturesque in the eyes of an American observer in homes and market places. And it centers in the budget for food. The government's mishandling for years of the fiscal difficulties which involved the decline of the franc hit especially hard the peasants and the middle class

[1] In "L'Agriculture et la Politique", in *La Nouvelle Revue* for January, 1929, M. Victor Boret refers to the fact that formerly a large majority of the French electorate were peasants and that, for this reason, their interests were always looked after by politicians without any special organization to secure favorable action. The situation is now changed; workers and small capitalists predominate. No party considers itself the peasants' advocate. Even the Radical-Socialists have produced no agrarian program of any account. The Communists have been quick to take advantage of this and to attempt to win peasant support for themselves. The other parties are warned that peasant misery is a source of potential trouble and that it is time the other parties recognized their responsibilities to the countryside.

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whose savings were in many cases nearly wiped out. The accompanying phenomenon of higher prices was an anguish almost too great to be borne. And the pressure on the government to use every means at its disposal to control the prices of common foods was irresistible.

An old law, that of 1887, still in force, gives the government "in exceptional circumstances and when the price of bread becomes a menacing tax on the public food supply, the power to suspend by decree, in the absence of the Chambers, all or part of the tariff duties for one or more of the products hereafter designated: wheat, rye, flour," etc. And under wartime legislation, this was expanded to include the right to do so "preventively", and "before a public menace should be created." It was also made to include "the cereals and their derivatives, starches, animals, frozen meat, canned foods, dried vegetables and potatoes." Under such general authorization, the legislators passed to the government *fonctionnaires* the responsibility for keeping down the cost of living. Caught between two fires, so to speak, and confronted with the disastrous results of its own fiscal policy in the decline of the franc, the government used, with the freedom we have already noticed, the powers it possessed to manipulate the customs. Crop shortage in France was met at various times by suspension of duties on imports; exports were prohibited or taxed. And all of this was done at the expense of the farmers. They protested but without much result. The new stability of the franc has, by now, however, created a situation in which a better chance exists for sane discussion. A shortage of bread, or an increase in its price—and these were continually threatened for years—created a panic in which whatever claims to consideration peasants might have had were simply ignored. Stability of production and prices is more likely to reëstablish a balance of forces in which all voices may be heard.[1]

[1] Another element in this situation which has played a part in the farmer's difficulties in recent years is the control of retail prices by municipal authorities or by départemental prefects. Frequently bread prices have been so fixed; those for table wines and meats less often; and those for other products still less frequently. One notable instance of apparently illegal restriction, which particularly incensed producers, was the establishment by the prefect of police in Paris of a price for milk.

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VI

One of the much discussed problems in France is the "*crise de main-d'œuvre agricole*", the shortage of farm workers, which has had to be met in two unsatisfactory ways: the substitution of women for men, and the bringing in of foreign labor. It has been well enough recognized that the best solution would be of another sort, but circumstances have prevented it. Rationalization of farm operations, and especially the introduction of a greater number of labor-saving tools and machines, would help most. But it is not only a lack of equipment which is accountable for the diminution of rural workers and their movement to urban centers. One other cause is the expansion of industry itself, with an attendant rise in wages and bettering of working conditions.[1] It will be remembered that in one way or another France has been able by now to reconstitute fairly completely her devastated districts. These were, even before the war, the most important industrial *départements*. The rebuilding has been done in such a way as to multiply the efficiency of the factories and to better the physical conditions of the districts in which they operate. This reëxpansion has intensified the attractions of factory work as compared with rural life where the old conditions still prevail. It is not at all unusual, still, in many parts of France for the proprietor and his family to live in a very old, dark, damp and inconvenient house in close proximity to the domestic animals; and it is still rather the rule than otherwise, especially on the average-size farm, for the workers, both men and women, to sleep on straw in the stables.[2] There is much complaint, too, of the diet; and there are, for the workers at least, and usually for the family itself, no sanitary arrangements at all. Lighting is primitive, water has to be carried long distances—laundry, for instance, is usually done in long communal troughs, frequently in icy water. To the inhabitants of such a region, and especially to the workers with no stake in the land, the com-

[1] J. R. Cahill, *Report on Economic Conditions in France 1928*, and also the *Rapport du budget de l'agriculture de l'exercice 1927*. Five chapters of this report are devoted to this problem.

[2] Though a law of 1920 makes this a punishable offense.

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parative attractions of a modern factory with independent lodgings are obvious. Love of the soil and predilection for the arts of cultivation break down under such pressure.

There are difficulties in the way of change. Building, in rural districts, is not by any means a large-scale operation. Houses are of stone and built to withstand centuries of weather. In a country with a stable or declining population not much new building goes on. It is consequently done on a small scale, is costly and not lightly undertaken. In this general way it is not difficult to understand the manner in which rural housing has fallen behind, judged by contemporary standards of comfort and convenience.[1]

But it is not only social conditions which are bad. The attempt to increase efficiency meets with grave obstacles, many of which are of the stubborn physical sort which are the despair of engineers. The village, for instance, is a community which looks as though it had been built to last forever exactly in the form in which it is seen. To reorganize it for more efficient husbandry, crop storage, or handling of machines and tools, to say nothing of improved living conditions, looks and is almost impossible without a complete re-beginning.[2]

[1] M. Auge-Laribe discusses some of these problems in *L'Agriculture pendant la guerre*. He says of the problem which vexes the French so much—the declining birth rate — that bad rural housing, and especially the conditions in which farm workers must live, contribute to the difficulty: "On a tout d'abord recommandé d'améliorer le logement des ouvriers, cela est en effet bien nécessaire dans beaucoup d'exploitations. Il est fréquent que les domestiques de ferme soient logés à l'étable avec les animaux qu'ils ont à surveiller; il faut d'ailleurs reconnaître que beaucoup ne s'en plaignent pas, car, en matière de propreté et d'hygiène, ils ne sont guère exigeants. Ils seraient beaucoup plus sensibles à une amélioration de la nourriture. Mais cette déplorable organisation a des conséquences trés regrettables au point de vue national. Tant qu'il ne dispose pas d'un logement indépendant, le domestique de ferme ne peut songer à se marier; s'il veut se marier il quitte la ferme et parfois la culture."

[2] Even the casual visitor in Provence, Dauphiné, Auvergne and other hilly regions in France must have noticed that most villages are built on the hilltops. One might think that centuries of local peace would have been long enough to have persuaded them into the valleys. But there they still stand, gathering the exquisite patina of age. Their lovely settings, especially in the clear light of the southern sun, have been celebrated by generations of artists. It is nevertheless relevant, even for one who cares deeply for these features of traditional life, to deplore the hard conditions they impose on those who dwell there, and

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And, for this, the funds are lacking, even if sentiment and the passive resistance of ignorance did not obstruct the way.. This is by no means all. In the triangular region which branches out northeast and northwest from Paris, with wide, flat fields and with characteristically large holdings, tractors and other types of heavy farm machines can operate. It is very different in most other regions. On a holding of less than twenty-five acres (eighty-five per cent) an immense overhead expense is taken on by the acquisition of new machinery. This can be and is partially met by coöperative ownership, but not sufficiently to cause one to regard this as a solution of the problem. On these small and hilly holdings, hand work survives; and in spite of all the government has been able or willing to do, and in spite, too, of an agrarian sentiment rooted in tradition, the thrusting of this population downward toward lower living levels seems not at all improbable. There is a bad time ahead for the small farmer who is not a gardener. There will be a gradual continuing movement from this class into other occupations, much abandonment of the type of land he has occupied, and, also, incidentally, a change in the isolated rural picturesqueness which is so attractive to the tourist. A sharp distinction has to be made between this class and the class which inhabits the broad valley bottoms and the seaward plains. There, farming is amenable to modernization, and it is there that most of the favorable changes in French agricultural technique are to be seen.[1]

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to wonder at the inertia which has preserved them. It would be difficult to exaggerate the discomforts of hill-town life. Streets narrow, badly paved, and used as open sewers; houses damp, and shut away from the sun; primitive sanitation; communal fountains for water-supply. These are inherent in the town-structure which appeals so greatly to us now, largely perhaps because it represents something which is lost to us, but which still actually *lives* in much of France. The problem of town-planning, to save something for the future of this old beauty, but to free the inhabitants of discomfort and inconvenience, has been met and solved in some of the rebuilt towns of the war zone. But the hill towns offer a harder problem. There crowding is imposed by location. But something must be done, if only to bring people nearer to the valley fields they work, even though beauty will be difficult to preserve.

[1] This article will be concluded in a future issue.—ED.

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REVIEWS

The New Industrial Revolution. By WALTER MEAKIN. New York, Brentano's, 1929.—284 pp. $3.00.

This challenging study of recent tendencies in industrial development brings to the English-reading public the most adequate statement yet available of the thoroughgoing reorganization of various basic German industries begun in 1925. The title itself raises a problem that is of considerable interest. In many respects, it would be more accurate to describe these new developments as a new industrial policy based upon the transformation of industry brought about by the "Industrial Revolution" of the late eighteenth and nineteenth centuries. The essence of the new situation is coöperation and frank discussion of industrial policy. All the parties are necessarily involved, the employers, the workmen and the government. There is a complete abandonment of competition and all that it connotes in respect of individualism. The term rationalization is perhaps not the happiest description of the new attitude, but it does serve to emphasize the value of substituting direct rational discussion and specific rational objectives for the notion that the public welfare can be best achieved by ignoring it and trusting to the unconscious operation of the interests of completely detached individuals.

In the past many have followed Arnold Toynbee's lead in assuming that the Industrial Revolution meant the triumph of *laissez faire*, and the establishment of an acquisitive society on a basis of thoroughgoing competition. If this were a sound interpretation of events, there would be of course abundant justification for the title of the present volume; but no unbiased study of the history of the nineteenth century will bear out such an account. The *laissez faire* policy was never really established, and the acquisitive society that has taken form is competitive only in certain phases of its activity. Downright monopoly and monopolistic competition prevail over large and increasingly important areas. The extent of these developments has been, indeed, thinly concealed by a vast structure of legal subterfuge and evasion, turning largely upon the mischievous

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identification of monopolistic competition with pure competition. But the business men of the United States are not under many illusions, and even the British industrialists do not perceive clearly that an element of novelty is really present in the German development.

In the policies now developing in Germany there is nothing that is entirely new. The limitation of output to steady the market, the closing of the technically inferior plants or mines, technological reorganization of the best plants, simplification of stocks and of marketing organizations, all these elements of industrial policy can be duplicated in the earlier history of Germany and of the United States. It is a new phenomenon, however, to see these features of a program put into effect on a large scale, thoroughly and comprehensively discussed in public without evasion, and carried through with the assistance of the government in respect to relief for operatives temporarily thrown out of work. It is also new to find the government at a later stage frankly accepting responsibility for the regulation of wages and prices in the industry. In applying this policy in the coal mines the number of operatives was reduced from 463,000 in December 1924 to 396,000 in December 1925, and to 355,000 in May 1926. This drastic curtailment of production and employment was carried through without friction after full discussion of the immediate consequences because the public was shown that it was an essential step toward the relief of the whole structure of German industry. Some of these operatives were taken back into the coal industry, the rest were absorbed in other industries which benefited from the lower costs of coal and the new demands for equipment created by the technological reorganization of all plants.

In all the industries reorganized there has been a considerable advance in corporate integration. The cartels have been supplanted by new incorporations in which the old member firms are completely submerged, and in many instances reorganized in new territorial groupings. This tendency is not without parallel in the United States, and the new conditions in the German steel industry present an especially striking resemblance to the American situation. But of course this feature of the reconstruction is only a single phase. It does emphasize, however, the fact that we have to deal with new industrial policies rather than with new forms of organization or new industrial phenomena.

The author devotes much attention to the discussion of British

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problems, attempting to show that the industrial crisis in England has been met with little breadth of view and little coöperation among the parties primarily interested. The British coal trade presents a singularly striking case of the absence of any effective policy. In the chemical industry under the leadership of Lord Melchett more disposition to coöperate has been shown, but there is little support for such a policy in England. The industrial leaders are still suspicious of each other and unaccustomed to coöperate. The unions are out of touch with the employers, and are disposed for the most part to oppose the technological changes essential to the future welfare of all the industries.

English industrial policy is still so largely dominated by the notions and catchwords of *laissez faire* and competition that little progress can be made in developing the new industrial policy. In the United States the ideas are familiar and the policy is strongly intrenched in the practices of the industrialists, though the hostility of public opinion to frank discussion makes it impossible to apply the policy broadly with frank discussion among industrialists, representatives of organized labor, and the government. Germany is thus taking a notable position in the leadership of the industrial world.

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The New Industrial Revolution and Wages. By W. JETT LAUCK. New York, Funk & Wagnalls Company, 1929.—ix, 308 pp. $2.50.

Lauck was a pioneer, before the war, in formulating for wage arbitration boards what he calls the "theory of increased productive efficiency", by which he means "the right of employees to share in the productive gains of industry in accordance with their contributions thereto" (pp. 17-41). Sixty years ago the wage-fund theory had, of course, been abandoned, and, in the first decades of the twentieth century, minimum levels or standards had been substituted for it. These took the two forms of a "pauper or poverty level", signifying that industries not permitting a higher level were "parisitical and anti-social"; and a "minimum of subsistence level", meaning that wages should allow for "the needs of men as social creatures", including provision for temporary unemployment, and for savings to take care of sickness, accident or old age. These standards had been put forward as "a bulwark against the serious

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effects upon wages of the unhampered play of the forces of supply and demand", and were sanctioned by the declaration of Congress, in 1916, that labor was not a commodity (pp. 7-25).

These standards continued to prevail until the industrial breakdown of 1920-21, when manufacturing, transportation and business interests claimed "there must be a drastic cutting down of wage rates, so that prices might be reduced and production and trade resumed" (pp. 67-68). This policy brought on widespread dissatisfaction and general strikes. Not until the beginning of 1923 did the cost-of-living and the supply-and-demand theories give way, during a period of "unprecedented prosperity", to the theory of "increased productive efficiency".

Lauck quotes abundant documentary evidence from many sources in support of the wide acceptance, among all classes of people, of this "new constructive policy" (pp. 76-199).

The economic argument in favor of this policy is the proposition, condemned by the classical economists, that the increased consumption of the wage-earners is necessary to take off from the market the enormously increased products resulting from increased efficiency. This argument, as Lauck shows, has gained wide acceptance (pp. 200-223).

> The net result has been that the employer, realizing that the continuing profitableness of industry is dependent upon an expansion in purchasing power, has willingly accepted and declared that there may be indeterminate wage-increases as long as costs are not increased and the proper margin of profit is maintained. . . . Proceeding cooperatively under this new understanding between capital, management and labor, industry has abandoned its old wage attitude and fundamental processes of economic thinking (pp. 222-223).

Lauck is enthusiastic and optimistic over the wide acceptance of this new theory, as he is entitled to be when he looks back to his pioneer efforts twenty years ago. Yet he does not overlook the criticism, objections and failures encountered by the theory. He finds that the National Industrial Conference Board thinks that more savings by capitalists are probably more important than "mounting wages" (p. 206). He finds others saying that "stability and regularity of industry means more to the efficiency of production . . . than any other one thing" (p. 210). If his book had been written eighteen months later, with the present world-wide fall in prices, he might have reached the conclusion that the productive efficiency theory is a theory of rising or stable prices during pros-

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perity, and gives way to the demand-and-supply theory during falling prices and depression. If he had taken account of the farmer he would have allowed that high real wages in industry have been due, in part, to the falling prices and poverty of the farmers. His theory somewhat changes during the progress of his book, for it turns out that employees should receive, not the productive gains "in accordance with their contributions thereto" but in accordance with what scientists and technological experts have added to the productivity of the nation as a whole. Hence, he advocates a "social wage", not a productivity wage, and unemployment insurance as a part of that social wage. His concluding chapters on "Constructive Remedies Needed" and "Labor's New Status" are indeed a recognition of the inadequacy of a "productive efficiency wage" in the improvement of labor's status. With this recognition, his book is the outstanding and authoritative record of the most remarkable change in attitude toward labor that has occurred in American history.

UNIVERSITY OF WISCONSIN JOHN R. COMMONS

A Review of Economic Theory. By EDWIN CANNAN. London, P. S. King and Son, Ltd., 1929.—x, 448 pp. 16s.

It is doubtful if a single other British economist of this day is as widely and thoroughly acquainted with the conceptual content of economics as Professor Cannan. His many years of teaching and study have been productive of erudition and scholarship in the finest traditional sense of these words. That these are widely held opinions among economists is alone sufficient to make *A Review of Economic Theory* an important book—and a disappointing one.

Possessing unique qualifications for the task, Professor Cannan might well have written a comprehensive account of the growth of economic science which would have been at once conducive to understanding of this large field and entirely worthy of the writer's scholarship. That he has chosen to work within a narrower area is, of course, merely to exercise the right of every author. The form and scope of the present book are dictated, in fact, by considerations quite different from those which have been mentioned. *A Review of Economic Theory* is a rendering into print of the course of lectures entitled "Principles of Economics Including the History of Economic Theory" which Professor Cannan gave for many years at the London School of Economics. And the present

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title was "chosen to disarm the criticism of those who would complain of omissions. A reviewer always does well to say what he wants to say and leave the rest out". In this instance a great deal has been "left out". Such figures in the history of economics as Wieser, Clark and Schmoller are not mentioned. Marx is referred to once, not as the proponent of state socialism, but because of his theoretical view that "skilled labor counts only . . . as multiplied simple labor". That which is not "left out" consists almost solely of the theories of value and distribution which are traditional in British economics. As these are brought upon the scene they are subjected by the author to a rigorous examination in logic—and at the same time are not required to give any account of themselves with reference to the problems from which they rose. The "heavies" of the piece are the classical school, especially those of the Ricardian persuasion; the arch-villain is Alfred Marshall. W. S. Jevons and Karl Menger appear as strong, courageous men to whom "the credit is due of pushing the discussion of value into a new and fruitful field" (p. 200).

Whatever their shortcomings in logical finesse, the classicists made a number of positive contributions to the theory of economics which recommend them to many students in this field. They were pioneer system-builders. Ricardo outlined, and J. S. Mill elaborated, the pattern of systematic economics which has guided the theoretical structures even of such "moderns" as Jevons and Cannan. Then too, the British classicists, from Adam Smith to Mill, were engaged in clarifying the insistent economic problems of their times and in working out relevant policies. Their systems were conceived with reference to these ends. In introducing Ricardo's contribution to value theory Professor Cannan does observe that the "great rise of prices" following the Napoleonic wars "set people talking about the [Adam Smith's] theory of value". And yet he does not particularize the problems which confronted Ricardo, nor does he reckon up the merits and defects of the Ricardian doctrines in terms of those things with which Ricardo himself was concerned. An illuminating "review of economic theory" may be written some day which will make clear the preconceptions and preoccupations of classicists such as Ricardo and "modernists" such as Jevons. In terms of such substance —and with minor regard to scholastic logic—a comparison probably would show a large balance to the credit of the classicists.

Even on the side of ratiocination it is difficult to believe that

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the older writers were as naïve as Professor Cannan paints them. His criticism sometimes has the appearance of protesting a great deal about a very little. His treatment of the Malthusian theory of population is as good an example as any. Professor Cannan devotes a considerable section (pp. 68-74) to demonstrating how little Malthus knew of the arithmetic of progression. He points out that Malthus'

> idea of food increasing only in arithmetical ratio was . . . confused. Taking "the first twenty-five years" quite arbitrarily as the twenty-five following 1798 . . . he supposes the daily or annual production may be increased 100 per cent. in that period, but cannot be increased by more than 50 per cent. in the second twenty-five years, 33⅓ in the third, 25 per cent. in the fourth, 20 per cent. in the fifth, and so on with a perpetual decrease of percentage. He quite forgets that if he put the "first" period back only 2475 years before his time he would have to hold that the production of food could not be increased more than 1 per cent. in the twenty-five-year period from 1798 to 1823, which is obviously inconsistent with his being willing to admit that it might conceivably be increased as much as 100 per cent. in that period.

Is this the important aspect of the Malthusian doctrine? Even if one confines one's attack to the matter of logic there are possibilities here for something more worthy of a critic's steel than such quibbling. It would be interesting to see Professor Cannan commence with Malthus' essential postulate that population tends to increase more rapidly than the food supply and attempt to puncture this structure which to many has seemed an airtight logical system.

Much of the argument bearing upon the classicists appears even sophistical. Thus, in considering Ricardo's theory of rent, Professor Cannan asserts:

> He [Ricardo] does not say, and there is no reason to suppose that he imagined, that the quantity of capital and labor which it is profitable to expend is the same per acre on all lands however cultivated. Obviously it is not . . . And the rent per acre will obviously depend not only on the ratio of the whole return to the expenditure but on the amount of that expenditure. For example, if on equal areas the valley farmer spends £100 and gets a total return of £150, while the hill farmer spends £10 and gets a total return of £17, when farming profits are 20 per cent., the rents of the equal areas will be £30 for the valley and £5 for the hill, whereas Ricardo's "rents" on equal "capitals" will be not as 30 to 5, but as 30 to 50, the hill land being actually in a higher grade than the valley! (p. 239).

Does this conclusion flow logically from the Ricardian context? Even if Professor Cannan's supposititious figures are accepted, is

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not the implication merely that the valley farmer is spending too much, or the hill farmer not enough, in the cultivation of his land? A number of contemporary economists (e. g. Davenport) have fitted rent into their systems in ways which are fruitful and at the same time different from Ricardo's. This, it would seem, is a way of making a substantial contribution to our understanding of rent.

Marshall is severely taken to task for his doctrine of value. And here again many students may seriously question whether some of Professor Cannan's objections are well founded. Thus, on page 209, the argument assumes that it is not quite consistent with Marshall's system for an increase in demand to be accompanied by a lowering of price. It is well known that Marshall conceived demand as a curve rather than as a point. And, in Marshall's elaboration of value in the *Principles*, it is clearly shown that low price and large volume of sales are as consistent with each other as large demand and high price. Marshall's discrimination between different conditions of cost has thrown as much light on these important differences as the work of any other theorist.

The classicists were at least concerned with problems of great importance. It is only with the Jevonian "moderns" that the interests of economic theorists became so largely academic.

HORACE TAYLOR

COLUMBIA UNIVERSITY

Mergers and the Law. New York, National Industrial Conference Board, Inc., 1929.—viii, 153 pp. $3.00.

This is one of four studies undertaken by the National Industrial Conference Board in the analysis of public policy toward business. The other three studies have to do with trade associations—their economic significance and legal status; with the public regulation of competitive practices; and with the economic aspects of industrial consolidation. The study under review, which was directed by Myron W. Watkins, is an analysis of the cases in which anti-trust laws have been applied to corporate mergers. It also lists supplementary statutes which affect such corporate mergers.

As a background the author sketches the development of common law principles which are relevant. As our organic frame of government with its threefold distribution of powers perpetuates the eighteenth-century view of what the English system of government was supposed to be, so the holdings of most of our state courts with reference to conspiracies in restraint of trade have conserved

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the earlier views of English courts which during the nineteenth century the English courts practically abandoned. "In other words, combinations to fix prices or limit supply are no longer in England regarded as unlawful. Much less is there any rule of English law forbidding or limiting outright proprietary consolidation" (p. 15). It is true that in some American jurisdictions, as for instance in New Jersey, in *Trenton Potteries Co. v. Oliphant* (58 N. J. Eq. 507), it was held as late as 1899 that "A person engaged in any manufacture or trade, having the right to acquire and possess property and do with it what he chooses, may lawfully buy the business of any of his competitors", although such purchase may for a time destroy competition. But in other states the doctrine of *ultra vires*, or of a monopolizing offense involving forfeiture of charter, was invoked by the courts. At this juncture the Sherman Anti-Trust Act was enacted by Congress, and the construction of that statute devolved upon the federal courts. The author characterizes the prevailing view of the Supreme Court in the three periods, 1890-1904, 1904-1911, and since 1911, when the Rule of Reason is supposed to have emerged. In the first period the Knight case lulled to rest the apprehension that the most thoroughgoing industrial mergers of industrial plants were unlawful. Then a rude awakening came in 1904 when the Northern Securities case was decided. It is rather surprising that no reference is made by the author to the view then currently entertained that interstate railroad companies were not subject to the Sherman Act. But the scope of the decision and parts of its language seemed to imply that for two erstwhile competing grocers to form a partnership might bring them within the toils of the statute. Finally in 1911 the long-deferred light of the Rule of Reason burst upon a darkened industrial world. It appeared that "not every consolidation of previously competing concerns is unlawful *per se*, that is, simply because it would necessarily end the competition between the constituents" (p. 41). Thereafter it was the intent to monopolize, to exclude competitors from the field and to oppress consumers, that determined the lawfulness of industrial combinations.

There next follows a review of a series of cases prosecuted under the Sherman Anti-Trust Act. These include the DuPont case, the Reading (anthracite) case, the Union Pacific control over the Southern Pacific, the St. Louis Terminal case, the United Shoe Machinery Company case, the National Cash Register case, the Keystone Company case, the Eastman Kodak Company case, the

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Corn Products Refining Company case, the American Can Company case, the United States Steel Corporation case and the International Harvester case.

The conclusions drawn from this review are: that a merger uniting units operating in non-competitive fields, or combining plants producing non-competitive products, is not unlawful; that a combination of plants which has naturally and by degrees been developed, or even one which has artificially been induced for legitimate reasons, even though each has a predominant position in the industry, is not unlawful. In the case of the merger artificially induced the size may create a *primâ facie* but rebuttable presumption of illegality. Finally, it is inferred that the larger and more powerful the combination, the greater is its responsibility to avoid all appearance of evil which the law was intended to preclude or forbid.

It cannot be said that more recent federal statutes that bear upon the basic anti-monopoly policy evince either consistency or logic. "Combinations to raise wages and combinations to raise the prices of farm products are not unlawful *per se*, while combinations to raise the prices of other services and commodities are absolutely illegal" (p. 107). "So great a favorite" is labor (and the farmer) of section vi of the Clayton Act. The author nods a little when he says that power to enforce the provisions of section vii of that act "was conferred upon the Federal Trade Commission . . . and upon the Attorney General." Section xi vests the appropriate power of enforcement in the Interstate Commerce Commission, in the Federal Reserve Board and in the Federal Trade Commission. Section xv invests the Attorney General with power to institute proceedings in equity to prevent and restrain violations of the act. From whatever point viewed, the Clayton Act is a retrograde measure, so far as mergers or consolidations are concerned. It seeks to prevent business expansion by stock acquisition which might be quite innocent under the judicial construction of the Sherman Act.

Later federal legislation, such as the Shipping Act of September 7, 1916, gives a large amount of immunity to steamship lines in apportioning traffic and fixing rates. The Webb-Pomerene Act gives similar privileges to companies engaged in export trade. Marine insurance companies are similarly exempted from the pains and penalties denounced against domestic industries generally. The various instances cited by Mr. Watkins of departures from the underlying theory of the anti-trust acts appear to quite invalidate his conclusion (p. 132) that "it remains true, on the whole, that

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willy-nilly we seem fairly on the way toward a clear-cut, logical policy of granting conditional exemption from the rigid prohibitions of the law to industries 'affected with a public interest' and to these only."

In his summary of how the Transportation Act of 1920 affected our anti-trust policy, the study is least happy and least adequate. This essay suffers from the fact that it went to press before the Interstate Commerce Commission, in December, 1929, promulgated its definitive plan for the consolidation of the carriers into a limited number of systems. But making all allowances for this occurrence subsequent to the completion of the study, there seems to be no reason why the study should omit all reference to the law's conditional permission of the pooling of freight and freight revenues. It is also a substantially incorrect appraisal of the effects of section 5 of the Interstate Commerce Act to say:

> Numerous minor cases of leases, and acquisition of control of connecting lines through stock ownership, have been favorably considered and certified by the Commission. But even in such cases, *most of which probably would not even have required administrative approval prior to 1920* [italics not in the original] the Commission's orders have been held subject to judicial review (p. 119).

This amounts to a complete undervaluation of the effect of the law in creating such virtually unified systems as the present Missouri Pacific, or the Van Sweringen trunk-line system in the East. It overlooks the fact that such acquisitions as the Southern Pacific's control of the El Paso and Southwestern effected a unification of parallel and competing roads. It has been estimated that, under the provisions of the Act of 1920, a previously independent mileage of 17,000 miles has been brought under common operating control, and that about twice that mileage represents the closer amalgamation accomplished through paragraph (2) of section 5. As to such sanctioned unifications being "subject to judicial review", what part of the anti-trust legislation has any immunity to judicial review?

Except for the wholly inadequate treatment of the Transportation Act of 1920, the study exhibits a carefully reasoned and discriminating appraisal of public policy, as exhibited in statute and court decision, toward proprietary mergers. If the author withholds a final verdict, and prefers to balance the good and evil therein, at least he puts us under obligation to him for his skilful guidance in a domain which to many is *terra incognita.*

WINTHROP M. DANIELS

YALE UNIVERSITY

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The Tariff on Iron and Steel. By ABRAHAM BERGLUND and PHILIP G. WRIGHT. Washington, The Brookings Institution, 1929.—xvii, 240 pp. $3.00.

This book is one of a series of studies by the Institute of Economics of the Brookings Institution dealing with the relation of the tariff, in the United States, to specific branches of production. Previous numbers covered sugar, wool, cattle, and animal and vegetable oils. As in other cases of books published by the Institute it is short and concise, and contains italicized sentences which summarize the chief points. A good printing job adds to its visual clarity.

The first two chapters, on the chemical composition of iron and steel and forms in which they are marketed and on the processes of manufacture, lay a necessary basis by presenting a simple statement of the facts of technology and production. A third chapter analyzes the various primary elements, such as labor and transportation cost, affecting the competitive position of the United States. This is succeeded by a consideration of the actual position of the United States, among the other leading producers, with respect to output, import and export. There follow treatments of the tariff on iron and steel and its effects, of recent price, trade, and cost movements, and of effects of the duties on special steels and their raw materials. A final chapter, in brief summary, offers conclusions, and appendices contain further data.

So far as competitive status is concerned it is pointed out that in general the position of the United States, because of rich natural resources and industrial effectiveness, is favorable with respect to "tonnage products". But this advantage appears to be greater with respect to domestic than foreign markets, and exports take a remarkably small part of the total production. It is further shown that, especially because of transportation costs, the competitive advantage in the domestic market does not necessarily exist for cheaper products at seaboard point. In the case of special steels such factors as high wages without commensurately high labor productivity (in other words, high labor costs) generally offset the other advantages. This also becomes particularly true of certain alloy steels and ferro-alloys, where higher cost of raw materials is an important element; in some of these instances the United States is at a distinct competitive disadvantage. It is in these latter cases, therefore, that import duties assume peculiar importance.

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The authors draw their general conclusions discriminatingly and judiciously. They believe that, although "other factors were more important than the tariff in promoting the prosperity of the iron and steel industry", the import duties were definitely "helpful in the eighties and nineties". This was "especially manifest in the case of tin and terneplate". But they conclude that "from about 1896 on, the industry so far as concerns the manufacture of tonnage products, was independent of the tariff", with the possible exception of seaboard establishments. As a matter of fact, "duties on tonnage products tended to decline after 1883 until 1922 when there was a slight reaction". European competition increased somewhat after 1920, but this is viewed as probably temporary. Duties on special steels and their raw materials are shown to be not subject to the above generalizations. Some have been effective and some ineffective, some unnecessary or undesirable and some helpful, from the protective viewpoint. Here the distinction between the raw materials and the finished products is particularly significant. Altogether, however, they believe that "in comparison with the tremendous part played by iron and steel in national prosperity, the part played by the tariff on these products simmers down to one of surprisingly small significance".

Aside from its usefulness to those particularly interested in iron and steel as such, the book attains two valuable objectives. In the first place, while at points displaying a necessary familiarity with the well-known concept of "comparative advantage", the authors throughout show a willingness to analyze their problem, not alone in terms of a particular theory such as the "classical" one, but in the light of practical conditions. The study is not doctrinaire. In the second place, by the same token, the book provides one more good "case-study". The reviewer believes that such analyses are the best means of testing, qualifying, and creating tariff theorems, and has for many years endeavored to stimulate this approach in advanced courses and seminars.

The reader may wonder whether any such studies can ever connect tariff cause and industrial effect with complete precision. He may also wish that other aspects of the tariff problem, such as tariff incidence, the basis for computation of duty, the effect of the duty upon foreign countries, and the comparative tariff experiences of other countries with respect to the same industries, might be developed somewhat more fully. But fuller treatment of these questions doubtless belongs to other series. The main wish of the tariff

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specialist is for more and more of these well-prepared "case studies", of this and other kinds, by organizations with staff facilities for research, so that a sounder basis may be constructed, *inductively*, for both economic theory and business and political practice with respect to domestic industry and foreign trade and foreign commercial policy.

JOHN DONALDSON

GEORGE WASHINGTON UNIVERSITY

The Statistical Method in Economics and Political Science. By P. SARGANT FLORENCE. New York, Harcourt, Brace and Company, 1929.—xxiv, 521 pp. $7.50.

Professor Florence has written a technical book for students of politics and economics; he has, however, by his method of presentation, done all that is humanly possible to allure the general reader to so forbidding a subject. It is a book which every scholar in these fields will wish to possess. Professor Florence, the author of *Sociology and Sin* as well as of *The Economics of Fatigue and Unrest*, begins with a plea for a scientific approach to the subject.

> The embryonic and parlous state of Economics and Political Science today . . . is primarily attributable to the admixture of moral implications with scientific observation in the author's thought and in the communication of his thought to reader and audience. Moral complications . . . obstruct and confound learning by distracting the audience, by misleading the audience, and sometimes by confusing the author himself.

The present reviewer confesses that this and similar passages stimulate him entirely to discard scientific detachment and to exclaim "Bravo!", if such an expletive be permissible in dealing with so solemn a topic. May the spirit of Professor Florence descend twofold, like that of Elijah, and be multiplied exceedingly, more especially in his own land.

It does not follow that Professor Florence is making a plea for an "abstract method", in opposition to what Bosanquet used to call "concrete idealism". The "economic man" occupies his usual position as a whipping-boy—not that Professor Florence looks with any undue favor upon the novel economics of J. A. Hobson and Cannan—and he rightly insists that a politics constructed upon the old liberal supposition of "the straight-thinking voter in a stationary state" is too unreal to prove of much service. The point is, of

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course, that the former, which once served its purpose in explanation, now raises more problems by its crudity than it solves as an hypothesis. In politics a similiar hypothesis might still do useful work in classifying the field, but "the straight-thinking voter" is certainly not the appropriate hypothesis. And, whatever hypothesis is chosen, it must, as Professor Florence insists, be one which we are ready to modify or abandon in accordance with our increased knowledge of the actual facts—often so very different from what literary gentlemen suppose them to be—systematically summarized, whether by the aid of mathematical symbols or otherwise. Here, in observation, not in apriorism, is the best mental discipline. For such observation, as the basis for statistical summary, this book is a plea.

On the other hand, Professor Florence deplores that, unlike economics, there is, at present, "in Political Science no such theoretical framework that can be usefully employed". He therefore demands a "new Political Science, embodying these generalizations", which shall be "indicative, not optative or ethical in mood", starting with "the individual person" as "original item". Elaborating this sound doctrine, he adds: ". . . statistical associations or correlations may not prove or disprove anything when taken alone, but when faced with a more or less plausible political theory which may interpret or explain their findings, generalizations or 'laws' of Political Science may be said to be established of some degree of probability".

Professor Florence's economic exposition will receive appropriate review elsewhere. In his first principles of political science he appears to be open to one criticism which is perhaps important precisely because this is a book on methodology. Twice within a few pages Professor Florence contradicts himself and, in both cases, apparently because, while advancing a new and sound theory, he declines to cut adrift from the impeding traditional terminology. In the first instance, he happily declares that political behavior is a "response to . . . commands" (although it is not clear that the terms "commands" and "*compulsory* enforcement" are entirely felicitous, since these imply sanction in a very different sense from "the sanction of exchange" and involve difficulties; *cf.* p. 361). Nevertheless, within a few paragraphs, "pure politics" is being defined as concerned with "The *Organization* involved", where "the sanction is compulsion". The reason for this lapse into the conventional treatment of the textbooks is apparently because "pure

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Economics" especially moves in the field polar to that of "organization", to wit "The Terms (Rates and Quantities) involved".

It is not clear why, for this division, which throws no new light on politics, should not be substituted the cross-division into quantitative and structural politics and economics. That there is a quantitative politics Professor Florence most definitely and rightly asserts. He gives it, however, the surely misleading name of Political Economics (which will always be confused with "Political Economy"— or is it identical?). He treats it, moreover, not without authority from Bentham, as the art of quantitatively "making the punishment fit the crime". It may, however, reasonably be doubted whether the quantitative elements essential to politics have any inherent connection with quantity in intensity of punishment which, so far as it is a feasible study at all, is one for applied psychology rather than for politics. The quantitative unit in politics would be more satisfactorily sought in the extensity of the force behind command (support) rather than in the intensity of power to compel obedience (a psychological question) measured in the terms of the penologist.

Again Professor Florence has the great merit of pointing out that the study of municipal bodies, of trade unions and of company executives is essentially a study of control and a *political* study— as much so as the study of state. This "Economic Politics" is the study of the politics of industry, as distinct from the study of transport, raw materials and factory arrangement which is a study of Structural Economics. In a little while, however, Professor Florence has repented him of his rashness and, after a transitional reference to "the political column", in which "looms out in particular the study of the institutions of State Government", he ends by telling us flatly and orthodoxly that "Politics proper" is the study of "State organization".

These are small points about which it perhaps seems ill to carp when Professor Florence has told us in this admirable book so many new things which have (especially in England) badly needed saying. But, trifles though they be, they seem to be fraught with no inconsiderable consequences to thoroughness and clarity in the later stages in the development of a genuine political science—as distinct from political philosophy and as identifiable (although this book does not say so) with sociology—to which Professor Florence here makes so valuable a contribution.

LONDON, ENGLAND GEORGE E. G. CATLIN

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Saraevskoe ubiistvo (*The Sarajevo Murder*). By N. P. POLETIKA. Published by the *Krasnaya Gazeta*, Leningrad, 1930. —xii, 430 pp. 2 rubles 50 copecks.

The publication of the first Soviet study giving a comprehensive picture of the murder of the Archduke Francis Ferdinand, its antecedents, and its international implications is of some interest even outside the frontiers of the U. S. S. R. In the course of the discussion of the responsibility for the war a tradition has grown among the followers of the so-called revisionist school, which seeks to put the chief burden upon the Entente, that the archives of the former Russian Empire contain undeniable proofs of the guilt of Russia. The fact that the numerous and very valuable publications issued by the Soviet government contained no such evidence was not accepted as a proof of their non-existence and the promises of the forthcoming sensational revelations have been renewed from time to time. It is not without a slight thrill of anticipation, therefore, that one opens the volume of N. P. Poletika, the first copies of which have just reached this country.

It must be said at once that this anticipation is doomed to disappointment. The volume is entirely based on evidence which is already known to American and European students and its scope and documentation is very much inferior to the familiar works of Seton-Watson, Renouvin and Fay. It is true that the reader is informed in a preface that what is quaintly described as the "scientific machinery" (meaning presumably footnotes and references to sources) has been intentionally omitted in order to make the book more accessible to the layman. Nevertheless a number of such references have been preserved and some of them are to decidedly second-rate sources while many of the most important publications are not even mentioned.

The chief purpose of the book is to destroy the "legend" of a plot on the part of the Central Powers to attack "a poor, small, innocent Serbia." In the opinion of M. Poletika the war was organized beforehand by the Entente Powers and was largely due to the desire of Russia to seize Constantinople. This was also the moving force of Russia's Balkan policy since 1903. Much space is given to the organization of the murder itself and to the discussion of the part taken in it by the Serbian government. M. Poletika is naturally of the opinion that Pashitch and his colleagues were perfectly well aware of what was going to take place at Sarajevo and did nothing to prevent it.

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All this is not very new, nor is it convincing. More instructive, perhaps, is the treatment of the attitude of the Russian government toward the crime.

> Did the Government of the Tsar know that an attempt upon the life of the Archduke had been planned in Belgrade? We have no documents which would allow us to give an affirmative answer to this question. But the diplomatic history of Europe is not based on documents alone, otherwise the study of historical events would be limited to a mere paraphrasing of such documents. It is quite possible that no document fully establishing the participation of the Russian Government in the conspiracy will be ever found in the Russian archives. We are inclined to think that no such document exists (p. 394).

But if there are no documents to prove the guilt of the Imperial Government, our author nevertheless maintains that "we have good reasons to suspect that some of the Russian statesmen might have known about the proposed crime." First among them is Hartvig, Russian ambassador to Belgrade, the charges against whom are supported by references to Barnes and Miss Durham. And then, of course, Izvolski, on the strength of Mr. Dell's notorious article which appeared in the London *Nation* in 1925. This article, which is reproduced in Barnes' *Genesis of the World War*, contains a promise of undeniable evidence from Russian sources of the connivance of the Russian government with the Serbian conspirators. No such evidence, however, has been ever produced by Mr. Dell and it is rather surprising to discover that the Russian author repeats the same charges on the authority of his English colleague. It does, indeed, look like a vicious circle. Another suspect is Sazonov who, ten days before the crime, mentioned the possibility of such an occurrence to the king of Rumania. The British and the French governments are also not free from suspicion. Of course evidence against them is even slighter than that against their Russian colleagues, but it nevertheless did not escape the attention of the Soviet historian. To be more exact there is no evidence, but merely the suggestion of a channel through which the information might have been transmitted from Belgrade to Paris and London. The channel in question is the freemasons. It appears that the official language of the *Grand Orient de France* in its relations with the affiliated lodges is Spanish, and Ambassador Gerard is reported to have discovered that the "native tongue" of some of the Serbians he met in 1914 was Spanish!

Having dealt this deadly blow to the Entente, M. Poletika turns

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to the Central Powers and denounces their wickedness in no uncertain terms. He insists on the decisive importance of the commitments entered into by Germany on July 5 and bluntly declares that the well-known decision of the Austro-Hungarian Council of Ministers to respect the territorial integrity of Serbia (July 19) was mere hypocrisy. Indeed, in spite of his admiration for *Die Kriegsschuldfrage*, which is described as "the most authoritative publication on the question of the responsibility for the war" (p. 211), he turns his thunders against some of the leading contributors of the German magazine. The utterances of "Barnes, Montgelas, Wiesner, and others" to the effect that Austria-Hungary was honestly determined to prevent the dismemberment of Serbia are branded as an "interpretation of petty bourgeois pacifists and hypocrites" (p. 440).

This volume of M. Poletika deals almost exclusively with the Sarajevo murder, but he announces that he has in the press another book devoted to the responsibility for the war. Shall we look toward it for information and enlightenment?

MICHAEL T. FLORINSKY

COLUMBIA UNIVERSITY

Correspondance diplomatique du Baron de Staal (1884-1900) publiée par ALEXANDRE MEYENDORFF. Paris, Librairie Marcel Rivière, 1929. 2 vols.—v, 960 pp. 100 francs.

The two volumes of the diplomatic correspondence of Baron de Staal, Russian ambassador to the Court of Saint James' from 1884 to 1902, present a most valuable addition to the historical literature of this period. Most of the documents now published were found in the archives of Chesham House, the former Russian embassy in London. Not only the dispatches and semi-official reports of the ambassador are included, but also a large number of the communications which reached him from St. Petersburg. The value of the collection is greatly increased by the inclusion of excerpts from the private letters of Baron de Staal to M. de Giers, minister of foreign affairs and a personal friend of the ambassador, and to a number of higher officials of the Russian Foreign Office. These private letters were fortunately preserved among the family papers of Countess Thécla Orloff Davidoff, the only daughter of Baron de Staal. They naturally contain interesting information which could find no place in the official correspondence. The volumes are ably and carefully edited by a nephew of Baron de Staal, Baron Alexander F. Meyen-

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dorff, formerly vice-president of the Russian Duma, and now lecturer in the University of London. The text of the documents for each year is preceded by a summary dealing with the subject-matter and containing valuable bibliographical references.

It is obviously impossible to mention here, however briefly, the very wide range of subjects covered by a correspondence which extended over seventeen years and which touched upon practically every question of international politics as well as upon many important problems of Russian and British domestic affairs. It may be noted, however, that at the beginning of Baron de Staal's term at the London embassy the Afghan question and the Bulgarian problem were among his chief preoccupations. It is interesting to note that the future *rapprochement* with England was foreseen by Baron de Staal. In a letter dated June 20, 1885, he gives an account of his conversation with Lord Kimberly: "*Je lui dit que, tout en maintenant l'accord avec l'Allemagne comme pivot de notre politique, nous ne pouvons qu'être sympatiques à un rapprochement avec l'Angleterre qui répondait à nos intérêts réciproques.*" The writings of Baron de Staal, this distinguished representative of the "old diplomacy", contain also general ideas which could be endorsed without reservation by the statesmen of our own time working for international coöperation. "*Je tiens uniquement à dire,*" the ambassador wrote on October 21, 1891, "*que le système d'isolement si à la mode aujourd'hui n'est pas le mien et que j'aurai beau faire, je ne pourrai jamais l'adopter. Il m'a toujours semblé qu'en fait de politique comme en fait de patriotisme qui, celui-là est un vrai sentiment, l'horreur d'autrui n'équivaut nullement à l'amour des siens . . .*" And, in conformity with this general principle, his policy in London was invariably directed toward a peaceful and amiable solution of the difficulties which arose between the two countries.

History repeats itself. Under the Soviet rule, certain international complications resulting from the internal conditions of Russia at the end of the nineteenth century have been recently revived. The persecution of the Russian Jews in 1890 led to a strong movement of public opinion abroad which is not unlike the situation created by the anti-religious decrees of the Soviet government in 1930. And in both cases the reply given by the Russian government to representations from abroad was very much the same. Even the question of disarmament, this ultra-modern product of post-war politics, is among those recorded by the ambassador. He remarks on May 2, 1894: "*On dirait que le désarmement est dans l'air*".

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The comments of Baron de Staal on British politics and statesmen, as well as on the general trend of world affairs, are full of interest and disclose a profound culture and keen power of observation. His letters will undoubtedly receive from the historians the attention they well deserve.

MICHAEL T. FLORINSKY

COLUMBIA UNIVERSITY

America's Ambassadors to England (1785-1929); A Narrative of Anglo-American Diplomatic Relations. By BECKLES WILLSON. New York, Frederick A. Stokes Company, 1929.—xiv, 497 pp. $5.00.

Mr. Willson set out to achieve two aims. His first was to present character sketches of the ministers and ambassadors of the United States in London from 1785 to 1929. The second aim, indicated in the subtitle, was to give "a narrative of Anglo-American diplomatic relations". He sought "to present, in all its significant fluctuations, the life of a relationship, racial, political, intellectual, moral, and social, altogether without parallel in history".

Success in reaching the second objective is much the more difficult of attainment. The nature of the general treatment, which takes its form from the first objective, creates problems in the organization of material designed to clarify the broader picture. Most of the incidents and problems did not, in point of fact, center about the personalities of the ministers, and many issues had to be dealt with by several ministers over considerable intervals of time. Therefore, the arrangement of materials under biographical sketches makes difficult the clarification of the issue itself. Not infrequently, moreover, in order to bring out a minister's personal qualities, minor incidents in which he played a characteristic part are developed at some length. Then, again, much larger questions, the exposition of which would unduly expand the book, are dealt with in compressed summaries. The consequence is an inevitable want of proportion in respect to successive issues—a distortion which arises from the very structure of the book itself. Even more serious is the fact that many negotiations took place in Washington between the British diplomats and the American secretaries of state. These are naturally omitted from the book. Thus the second objective suffers from the very nature of the first, and the effort to give a broad picture of a relationship is partially defeated.

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The portrait gallery is done in the conservative manner. There is no psycho-analytical portraiture; the pictures are in the objective and restrained manner of a quarter of a century ago. Mr. Willson uses the series to support the thesis "that no matter from what race the representative American springs, his culture is English, and that although, like John Jay, Van Buren, and Roosevelt, he disavow one drop of English blood, when he lands on English soil he is, in the larger sense, at home."

> In their personalities, their public and private utterances and behaviour, they reveal, though so remotely bred, the unmistakeable *ethos* of our English race. Alien antecedents, national prejudices, exerted their full effect; yet always, in crucial moments, these men have thought, felt and acted toward current phenomena precisely as Englishmen of their temperament, education, and station would have done, and not at all as aliens would do.

This seems a very large generalization, and very difficult of application to such men as Stevenson, Schenck, Dallas and George Harvey. It is a bit absurd to say that "at a stroke" the portraits of forty Americans enrich "the political and social annals" of Great Britain "with a new line of authentic English statesmen", just as it will hardly be accepted that "London is the true capital of both peoples."

As is almost inevitable, the portraits themselves are quite uneven in value. The earlier chapters reflect the poverty of the legation archives. Ministers were accustomed to bundle off with them most of their correspondence. Methods of filing and preservation were rudimentary, and the record is not full until Aaron Vail, who acted as chargé for four years from 1832 to 1836, put the archives in order, and established sounder procedures. Indeed it is fair to say that the sketches are successful in proportion as they are based on first-hand materials. Where there have been biographers of the ministers, Mr. Willson tends to follow them too closely. And when they played major rôles or dealt with great questions he has a tendency to follow a few standard books, without appearing to be acquainted with the more specialized literature. The chapter on John Adams, for example, quotes Willis Fletcher Johnson excessively; more than eighty per cent of the chapter on Gouverneur Morris consists of quotations from his published diary, and other familiar printed matter; the simplified account of Jay's treaty shows no evidence of acquaintance with Bemis' studies, but quotes only books of the most general character, several of which were written

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before Bemis wrote his volume. In this connection, it may be remarked that though the book abounds with voluminous quotations there is relatively little citation, and one has to depend, very often, upon his own familiarity with available books and materials to judge when the legation archives are being quoted rather than some published work.

But where secondary material is slight, as for instance in the case of Aaron Vail, Mr. Willson does admirably. His picture of Stevenson is clear and eminently fair, as is his discussion of James Barbour, Louis McLane, R. C. Schenck and certain others. He believes warmly in diplomatic uniforms and costume, and from the time of Marcy's famous "black coat circular" he seldom fails to mention the attitude of the minister on that cockle-bur issue. In this matter and some others, he shows irritation with the more blatant evidences of American democracy, and, generally speaking, prefers the Republican representatives, and those with wealth to support a very active social life, to those Democrats who by principle or necessity adopted simpler and less ostentatious modes of living. The ministers had, of course, to deal with the British aristocracy both officially and socially. Mr. Willson emphasizes this by giving his warmest praise to those whose wealth and social gifts made that contact easy and natural. Thus, Whitelaw Reid holds highest place in his estimation. "In his own person, in tact, in sympathy and in munificence, he was an ideal representative of his country. Although of Scottish origin, he took all the finer English qualities, adapted them and magnified them, so that he looked, acted, spoke and spent like an English aristocrat, who is usually the simplest of men, while yet retaining his local loyalties and that precious humorous mental detachment which more than any other single quality proclaims the American." The passage throws as much light on Mr. Willson's criteria as it does upon Reid himself.

The later chapters are based upon greater intimacy of knowledge, but less effective perspective. The chapter on Walter Hines Page, for example, is almost wholly laudatory. He deals only humorously with Page's failure to preserve the temper of neutrality which President Wilson so earnestly desired. His picture of George Harvey is far better, though there is an amazing distortion of perspective in the intimation (pp. 475-76) that the Washington Conference of 1921 was designed to reassure the American people who were getting restive about Harvey's speeches in England!

The book will be of some value for the scholar because it gathers

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useful material in one place. But its lack of critical apparatus, and of familiarity with special studies, will limit its utility. Its appeal will be primarily to the layman, who will find what he cannot find within the covers of any other book—a clear, simple, well written and lively story of one side of our relations with the British Empire. There are pictures of nearly all of the ministers and ambassadors. They were well chosen, and have been admirably reproduced.

HENRY M. WRISTON

LAWRENCE COLLEGE

Emperor Francis Joseph of Austria. By JOSEPH REDLICH. New York, The Macmillan Company, 1929.—xvi, 547 pp. $5.00.

The Hohenzollerns. By HERBERT EULENBERG. New York, The Century Company, 1929.—viii, 364 pp. $4.00.

Criticisms of Teutonic royalism from without are apt to be received with the skepticism usually accorded to the foreign critic. He is not "one of ours": how shall he understand? Criticism from native socialist or other radical sources is easily imputed to party bias. But how shall German kings seem again more than mortal after the trenchant biographies of such men as Ludwig, Eulenberg and Redlich, liberals indeed but in no mere party sense, men sufficiently liberal to see the good even in a king? It is the moderation and justice of these studies that constitutes their power. Royalty, at least the actively political German type of royalty, is shown to be the nemesis of the best-intentioned princes, a remorseless institution which crushes their happiness as men and paralyzes their best efforts as statesmen.

Take the case of Francis Joseph of Austria, "the last European monarch of the old school" as he smilingly introduced himself to Roosevelt. A good man surely, with at least average intelligence and more than common charm of personality. A servant of his state, if not exactly of his people, he worked long hours, lived simply, suffered both personal and national reverses with courage; in his later years he was "the embodiment of the perfect gentleman on the throne of the last imperial German dynasty" (Redlich, p. 481). Yet his long reign began with broken promises of constitutional rule, continued through the reign of terror in defeated Hungary and the unjust wars against German and Italian nationalism and liberalism, postponed the national and constitutional questions which the ruler could not or dared not solve, and ended in the supreme disaster of

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the Great War. And there was shame as well as suffering. We hear much of the fickleness of the crowd, of the ingratitude of republics, but the American mob at its worst has never been as disloyal to its former heroes as was Francis Joseph to General Benedek, who for "reasons of state" was made the scapegoat for the unsuccessful war with Prussia (Redlich, p. 327). The same reasons of state, or rather reasons of dynasty, explained, if they did not excuse, the many failures to grasp opportunities to bring Austria abreast of the age. "Francis Joseph was often to lament to his intimates that Austria neither then nor later possessed a man like Bismarck. . . . Austria owed the fact that no such man could exist there mainly to 'good Emperor Francis', but also to Francis Joseph himself, in whose cabinet there never was any place for a 'demonic' statesman. . . ." (Redlich, pp. 320-21). In a word, by the supposed necessity of clinging to all the past, the Habsburg dynasty lost for Austria all the future.

But perhaps one may find a brighter picture in Austria's successful rival, the Prussian monarchy, which found a way of blending past traditions with present opportunities in the days of Frederick, the days of Stein and the days of Bismarck. Surely the Hohenzollerns were a race of warlike supermen, unscrupulous perhaps, arrogant, heavy-handed, but masters of destiny for all that? No such illusion can survive a reading of Eulenberg. "The dynasty can show a whole succession of compliant, unwarlike and amenable persons" (Foreword). Nearly all were well-intentioned and patriotic (not patriotic for Germany, of course, until the eighteen-sixties, but for their family estate of Prussia). But they were as often putty as iron. One of the best of the race, the straightforward and honorable Wilhelm I, had only so much political discernment as Bismarck lent him, cared so little for the cause of German unity that he accepted with childish sulks the imperial crown which he feared might dim the splendors of the Kingdom of Prussia, and often pouted in ridiculous fashion at the orders of the chancellor whom he dared not disobey. Perhaps our author is a little inclined to be hard on the last of the Hohenzollerns. There seems to the reviewer no need to assume that his concern for laws protecting workingmen was wholly insincere or misdirected (Eulenberg, pp. 302-303); if a pose, it was surely a very amiable one. Nor is it certain that his unheroic flight to neutral Holland at the end of the war was merely a case of cowardice. Napoleon also attempted flight after Waterloo. Nor, finally, does it seem fair to tax the very well-intentioned Bethmann-

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Hollweg, Wilhelm's choice for chancellor, with so great a share of responsibility for the Great War (Eulenberg, p. 306). Still, make every allowance possible for the bias of such German liberals as Ludwig and Eulenberg, and yet the picture they draw from the very words of the Kaiser condemns him utterly not only as a statesman but as a citizen competent to cast a vote. It seems incredible that in the twentieth century a ruler of a great state could have been so under the spell of royalist illusions that he paid visits to a French ex-empress "in order to win the affection of the French Republic" and was certain till the last moment that England would not enter the Great War because of supposed assurances from King George (Eulenberg, p. 308). Where were his tutors when he should have been learning about the existence of democracy in France and England?

The Hohenzollern clan has often been marched in review by biographers. But Eulenberg contributes at least one novelty. Usually the stern empire-builders of the line are praised, such figures as Friedrich Wilhelm the Great Elector and his namesake the father of Frederick the Great. Correspondingly, the weaklings, the unwarlike members of the line, such as Georg Wilhelm, the vacillating neutral of the Thirty Years War, Friedrich I, and Friedrich Wilhelm II, are harshly condemned even by their own kinsmen. Herr Eulenberg is the kind of biographer who likes to present the other side, to "spare the vanquished and subdue the proud", in the words of the ancient Roman maxim. So he emphasizes the better qualities of the royal weaklings, such as their love of peace or interest in culture, and delights to point out many blunders in the policy of the state-builders. In a memorable passage he tells of the gallant soul of Friedrich III, father of Wilhelm the Disastrous, eagerly seeking to visit his great ancestors in a warriors' Valhalla set apart for German kings. He looks in particular for the shade of Friedrich II of the Hohenstaufen dynasty but does not find him: ". . . he was seated in Mohammed's seventh heaven, discoursing in Arabic with the prophet on the absurdity of the historians and other servile souls who maintain that there is a vast difference between an emperor and a man" (Eulenberg, p. 282). He intimates that another Friedrich II (Frederick the Great) of the Hohenzollerns, was similarly exempt from the fatal illusion of rank which weakened the line as a whole. To him as the enlightened man rather than as the conqueror, admiration is extended. Few biographers have ventured to say that "Frederick did, in fact, lose the Seven Years' War" (Eulenberg, p. 160),

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meaning that he had to retrocede his temporary conquest of Saxony, and still fewer have ventured to praise his poetry (Eulenberg, p. 158). But Eulenberg is eminently capable of the convincing presentation of the unconventional view.

PRESTON SLOSSON

UNIVERSITY OF MICHIGAN

After Thirty Years. By VISCOUNT GLADSTONE. Third and revised impression. London, Macmillan and Company, Ltd., 1929.—xxxii, 457 pp. $7.50.

In this volume, first published thirty years after the death of William Ewart Gladstone, his son presents, not a new biography of his father, but rather a series of essays which supplement Morley's famous work, and tend to correct certain misapprehensions which have grown up in the course of recent years. In the early chapters of Part I, Lord Gladstone gives some very interesting reminiscences of his father's private life, which show how natural and human he was in his relations with family and friends, how kindly and tolerant was his attitude towards his enemies, how broad and vivid were his interests, how enormous was his vitality and energy, and with how many activities his full and laborious life was occupied. The author then demolishes, with somewhat unnecessary thoroughness, a number of rather foolish and trivial legends which had grown up about the life and habits of his father. The extraordinary incidents leading to the case of *Wright vs. Gladstone*, through which Gladstone's name was cleared from groundless accusations of immorality, are set forth briefly in an appendix. Two chapters in Part I throw a good deal of light on Gladstone's attitude toward the problems raised by the development of the natural sciences and toward questions of social reform. Yet with all this additional information, it is difficult to avoid the conclusion that he had only a limited comprehension of some of the greatest scientific achievements of the age, and that the great libertarian never fully understood the need of the laboring masses for protection and assistance as well as for freedom from artificial discriminations. A final chapter in this part, which might well have been expanded, sets forth Gladstone's general ideas and principles in regard to international relations.

The second part, comprising about half the book, is a discussion of the series of political controversies in which Gladstone became involved from 1876 to 1886, especially those connected with the Near East, South Africa, Egypt and Ireland. Here the author,

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who during most of the period in question was in active political life, hardly displays the cool impartiality of the professional historian. He is an impenitent Gladstonian Liberal, and generally sees to it that the Conservatives get the worst of it on any controversial matter. The chapter on the Near Eastern crisis of 1876-78 does not add very much to our knowledge of the subject. The other chapters in this part are of very great interest and value. They are based to a large extent on the author's own recollections of the period, and on unpublished contemporary documents, such as personal letters and his own and his father's diaries, from all of which lengthy quotations are freely introduced. In the pages on the Egyptian question, no light is shed on one of the most perplexing problems of Gladstone's political career—his assent to the bombardment of the Alexandrian fortifications and the subsequent occupation of the country. The Sudan affair, however, is treated at great length. Special attention is given to the appointment of Gordon and the circumstances leading to his tragic death. Much evidence is adduced to show that in each case responsibility cannot be placed wholly or even chiefly on "Mr. G.", but must be shared not only by his colleagues but by the military authorities as well. In the discussion of the South African question, a strong argument is presented in justification of the "Surrender" at Majuba Hill.

The chapters in Part II on the Irish problem, together with a portion of Part III dealing with the same subject, are of interest because of the large number of original documents quoted. These show with how much deliberation Gladstone adopted the policy of Home Rule, how careful he was to avoid taking advantage of the chance of buying the political support of the Irish Nationalists in the election of 1885, and with how much earnestness he endeavored to reach a solution of the problem without involving it in British party politics. Lord Gladstone's own part in the affair is treated fully and interestingly. It is rather a pity, however, that so many pages are devoted to an elaborate refutation of some rather trifling accusations made against Gladstone in a book published in 1914 by the unfortunate Mrs. O'Shea.

Part III consists for the most part of a criticism of Mr. Buckle's editing of the last volume of Queen Victoria's letters. It is pointed out that while Mr. Buckle included a large number of letters bitterly attacking Gladstone, and especially his Irish policy, no letters from the Queen relating to the dealings of the first Salisbury administration with the Irish problem are included. Mr. Buckle, however,

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has replied that no such letters were in fact found in the Windsor archives, and that he was careful, in printing the Queen's criticisms of Gladstone's policies, also to give full space to the latter's replies. The controversial aspects of the question, however, are of less interest than the evidence which is presented of the extraordinary hostility which was felt by the Queen toward Gladstone after 1876, as contrasted with the cordiality and friendliness of their relations prior to this date. Lord Gladstone argues that the change was due to the dominant influence which Lord Beaconsfield obtained over the Queen's opinions at this time and which was responsible for her violent disapproval of Gladstone's actions in regard to the agitation over the Eastern Question. But on the whole it would seem that in explaining the change in the Queen's attitude there must be taken into account other factors, such as Gladstone's closer affiliation at this time with the "Radical" group in English politics which the Queen had always distrusted, and his participation in an apparent effort to influence the foreign policy of the state by popular agitation, which would probably have aroused the Queen's active distrust at any previous time in her reign quite as much as in 1876.

Lord Gladstone is no doubt too severe a critic of himself when he says he has "no skill . . . in the writing and composition of books". Yet *After Thirty Years* undoubtedly leaves something to be desired in certain matters of style. In places it is poorly arranged, it sometimes lacks continuity, occasionally an over-argumentative passage is confused and difficult to follow, here and there a sentence lacks subject or predicate. Yet the artless volume holds the interest throughout, and indeed possesses a unique charm from the many fresh and intimate glimpses it gives into the life and character of one of the greatest spirits of his age.

St. Stephen's College F. R. Flournoy

The Constitutional Development of Jamaica, 1660 to 1729. By Agnes M. Whitson. Manchester, Manchester University Press, 1929.—xiii, 182 pp. 12s. 6d.

The British Caribbean in the old colonial era has been a field of history overshadowed by the greater attention given to the mainland colonies. That attitude was perhaps natural when the two groups are considered from the standpoint of social values and drama. In the fullness of time the continental colonies emerged from dependence into full statehood while the islands ever remained colonies and

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even fell somewhat in the social and economic scale. Measured however by the test of imperial values of that age the West Indies were superior to the northern colonies. But for long years the imperial vantage point lay neglected and West Indian history lay untilled. The imperial angle has now been assumed and appreciated and the West Indies have been brought into clear relief. Scholarly studies of recent date in this field include Pitman, *Development of the West Indies* (1917), Higham, *Development of the Leeward Islands 1660-1688* (1921), Harlowe, *History of Barbadoes 1625-1685* (1926), Ragatz, *Fall of the Planter Class in the British Caribbean* (1928). Miss Whitson's able work on Jamaica, 1660-1729, stands in this group.

By 1675 the separatist conduct of the colonial assemblies, chiefly in Jamaica and Massachusetts, brusquely forced upon the English government the task of curtailing local freedom of action in the interest of central or imperial authority. England however was a novice in the political control of remote colonies; she was without either the chart of her own experience or an adequate knowledge of colonial psychology and conditions to guide her. She tried two significant experiments modeled upon precedents alien to American life, in Jamaica a plan borrowed from Irish experience, in New England a scheme fashioned upon the French system in Canada. The Lords of Trade decided to enforce in Jamaica the principles of the Poynings' Act as applied to the Dublin parliament, that no assembly should be called without direct royal sanction and no law should receive the governor's consent until stamped with royal approval. A necessary part of the scheme was a perpetual revenue act to be passed by the assembly to free the royal officials from dependence upon the local will.

There is much to be said for the attempt to limit the assembly which, with deliberate intent, had established its independence of royal power. But the method was unworkable because it defied the realities of colonial existence. In the first place there was the temper and genius of the people. Jamaica was new as an English colony, but the people were old in a political sense; "there was no infancy, no childhood of opinion" on the subject of popular liberties. Jamaica had enjoyed full legislative freedom; it was too late to force upon Jamaica a system which outraged local spirit and usage. And there was the question of distance; as Burke said to the English ministry a century later, "Who are you, that should fret and rage and bite the chains of nature?" And certainly the assembly would

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not yield the control of the purse strings; for the grant of a permanent revenue would reduce legislative power to nullity, it would deprive the colony of the means to control an arbitrary executive. Lynch and Molesworth, both capable governors of the colony, colonial planters and British merchants, opposed a scheme that was untenable. The law officers of the Crown apparently refused to support a plan to change, by the sole exercise of the royal prerogative, the established Jamaican constitution. Before these forces of both history and law, the Lords of Trade were forced to yield and Jamaica continued to enjoy legislative independence. After long years of struggle the assembly finally passed a perpetual revenue bill but even that was a compromise which left to the assembly a large hand in the granting of additional revenue.

Miss Whitson has done a fine piece of work, creditable in every way, in the generous use of sources, in arrangement and presentation, in constructive thought. It is a companion volume to that by Miss Barnes on *The Dominion of New England* (1923), both of which deal with English efforts to employ political invention in defiance of colonial experience and with the inevitable result of failure.

W. T. Root

State University of Iowa

Responsible Government in the Dominions. By Arthur Berriedale Keith. 2d ed., 2 vols. Oxford, The Clarendon Press, 1928.—lxiv, xxvii, 1339 pp. 73s. 6d.

The Sovereignty of the British Dominions. By Arthur Berriedale Keith. New York, The Macmillan Company, 1929. xxvi, 524 pp. $7.25.

Professor Keith's position as an authority of unrivaled reputation on the government of the British Dominions is too well known to call for comment here. *Responsible Government in the Dominions,* the most comprehensive and important of his many books, has retained its place as the indispensable treatise on its subject. But it was published in 1912, before the Dominions had reached their present stage of constitutional growth, and there has been real need of a revision that would take account of significant developments of the war and post-war periods, during which the advance in Dominion status has been so rapid. The Report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926, commonly known as the Balfour Report, gave the author a suitable vantage-ground

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from which to resurvey his extensive field, and the Oxford University Press fortunately felt justified, from the publisher's point of view, in bringing out a new edition of the work, though the cost of production made it necessary to limit it to two volumes instead of the original three. This exigency and the need of finding space for a large amount of material relating to the years since 1912 compelled the author to condense and summarize much of the contents of the first edition, especially the citation of cases and despatches. Throughout, new material has been fitted into the framework of the old, and though some chapters have been added, the general structure of the book has not been altered.

Responsible Government is primarily a work of reference. Even among serious students of the subject not many would set out to read it from start to finish. *The Sovereignty of the British Dominions* is less comprehensive in scope and much briefer in compass. Its aim is not to describe all aspects of Dominion government, but to trace the growth of Dominion sovereignty, both in its internal and external phases, and to show the limitations to which, in the author's opinion, it is still subject. Most of the matter contained in this volume can be found in the new edition of *Responsible Government*, but the two works differ in organization as much as in scope and object. In a sense the later book may be regarded as a rejoinder to the Balfour Report, and in the light of that document chief interest attaches to Professor Keith's views on Dominion status.

In the Report Great Britain and the Dominions were declared to be equal in status, united by a common allegiance to the crown and freely associated as members of the British Commonwealth, though it was recognized that existing legal forms, and to some extent existing practices, were not wholly in accord with the principle of equality. This being the case, the declaration of equality, though doubtless politically expedient, cannot be regarded as scientifically accurate. It expresses an ideal or aspiration rather than a fact. Such, at any rate, is Professor Keith's opinion. As evidence that the Dominions are not possessed of full internal sovereignty he refers to restrictions upon their power to alter their constitutions, to the general rule that Dominion parliaments cannot legislate extraterritorially, to the supremacy of existing Imperial legislation over Dominion legislation (of especial importance in the matter of merchant shipping), to the appellate jurisdiction of the Privy Council, and to the bestowal of honors, which, though not conferred in practice upon residents of a Dominion without the approval

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of the Dominion Government, are not conferred except on the advice of the Imperial Government.

In the sphere of external relations, similarly, the author's analysis of the evidence does not support the theory of equality. For example, present procedure in the making of Dominion treaties involves the intervention of the Imperial Government, and Professor Keith denies that this intervention is purely formal and mechanical, as some authorities have contended. The idea that the King can act directly on the advice of Dominion ministers he dismisses as a "constitutional mostrosity". He takes issue sharply and effectively with those who look upon the British Commonwealth as a mere personal union of independent states, connected only by common allegiance to the same sovereign, as Great Britain and Hanover were connected during the eighteenth century. No Dominion, he holds, has the right to make war or peace separately, or the right to remain neutral in a British war, though it is not under obligation to take active part in hostilities unless it chooses to do so. In opposition to a view that is common among members of the Nationalist Party in South Africa, he argues that no Dominion has a constitutional right to secede from the Empire.

Many informed readers of this important book of Professor Keith's may feel that he exaggerates the practical importance of some of the surviving limitations upon full Dominion self-government. But in the light of the facts which he presents it seems impossible to make good the claim that the Dominions today are actually on a plane of constitutional equality with Great Britain.

ROBERT LIVINGSTON SCHUYLER

Empire and Commonwealth. By CHESTER MARTIN. Oxford, The Clarendon Press, 1929.—xxi, 385 pp. $5.00.

Sir Charles Bagot in Canada. By G. P. DE T. GLAZEBROOK. New York, Oxford University Press, 1929.—viii, 160 pp. $2.50.

Both these books have to do with the distinctive British contribution to the history of colonial policies, "responsible government". The volumes are interesting and informing contributions to political history, enlivened throughout by copious extracts from personal correspondence, and Professor Martin's in particular by numerous succinct character sketches. They deal with political leaders—their personalities, policies and tactics — rather than with underlying movements and forces.

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Mr. Glazebrook has written an excellent brief monograph on political vicissitudes in Canada during the Bagot régime. This year (1842) is critical in that it marks the transition from gubernatorial management under Sydenham to virtual party government, and also the advent of the French to office in effective alliance with the Upper Canadian Radicals. A well-balanced picture of the political situation as a whole is given, as well as an account of the various negotiations. The texts of the principal despatches dealing with the situation are printed in an appendix. The larger work comprises six related studies: one devoted to the wrecking of the old Empire; two to the securing of responsible government in Nova Scotia; another to the antecedents and effects of the Quebec Act; the fifth to the working out of the various phases of the parliamentary system in Canada during the administrations of Sydenham, Bagot, Metcalfe and Elgin, and the final section to certain conclusions for the Commonwealth today suggested by these earlier experiences. The work is, of course, scholarly. It embodies the results of a thorough exploration of the sources and of the work of previous investigators, and presumably marks the definitive treatment of the subject from this point of view. It is, however, essentially an interpretation of colonial history and policy.

Professor Martin's thesis is, briefly, that the principle by which the so-called "second Empire" was saved from the fate of the first, and by which the Commonwealth is now bound and can alone be held together, is frank recognition of responsible government; that the method of achieving this, by which the colonies which remained British secured autonomy, has been recourse to British parliamentary analogies and readily adaptable conventions, not to rigid guarantees and statutory enactments. From the author's standpoint the Quebec Act becomes a reactionary anomaly. It marked recourse to explicit enactment rather than convention; it postponed British representative institutions; it abandoned Anglicization (there seems to be the rub), and laid the foundations of a perduring racial cleavage; it was intended to discourage British immigration, and was planned as a weapon against the older colonies. This is probably the most controversial subject in the book. The Act is bound to be interpreted in the light of judgments upon subsequent problems in Canadian public life. Are government in accordance with the wishes of the inhabitants and establishment of British institutions synonymous? If not, which of these has preserved the Empire? The dilemma is avoided by the younger school of Anglo-Canadian

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historians, however, who maintain, contrary to the traditional view, that it was not because of, but in spite of, this settlement that Canada was saved—that the bulk of the "New Subjects" were so disgusted with it and intent on securing British institutions that they forsook the leadership of both Church and *Seigneurs* and sided with the revolting colonies.

The principle of autonomy in admittedly domestic affairs may be said to have been achieved in Canada under Lord Elgin by the middle of last century. From then to the present, as Professor Martin observes, there is a gap in his survey. True, deference to the wishes of the colonies still guided developments; in fact it was settled policy that the initiative should come from them. Yet it should also be noted that during this intervening period the problem of responsible government entered on a new phase, owing to the issue of its extension to the external relations of the Dominions. The vital consideration was the fact that the Dominions were not in a position to bargain on terms of equality with foreign powers. Hence the issue of colonial emancipation from Downing Street has not been (as it was in the earlier period) solely one of progressively extending the scope of local autonomy. For forty years it has been complicated by the commitment of numerous and influential groups in all the Dominions as well as at home to an alternative solution—the communal management of external affairs, either through a central organization or on a looser basis of coöperation. Hence, furthermore, it has not been essentially a struggle between metropolis and colonies, but between competing bodies of opinion throughout the Empire.

This last point raises a similar query as regards the earlier period. Admittedly there was bitter division within the colonies on the issue of responsible government, irrespective of Colonial Office and governors. Fully as significant as the theories of the home government, the policies of governors, or the maneuvers of politicians, are the clashing interests within the colonies for which the constitutional issue was merely the focus. Yet since the controversy has in general been treated from the standpoint of a study in colonial policy, the strictly internal phases have been relegated to a subordinate place. The latter aspect as such, so far as the reviewer is aware, has never been adequately worked up. Now that the "how" of this central feature of Canadian development has been so ably explored, presumably the "why" of it, its truly Canadian ingredients, will henceforth attract increasing attention from historians.

UNION COLLEGE A. GORDON DEWEY

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The Coal Industry of the Eighteenth Century. By THOMAS SOUTHCLIFFE ASHTON and JOSEPH SYKES. Manchester, Manchester University Press, 1929.—ix, 268 pp. 14s.

Slowly the highly colored, if brilliantly imaginative, picture of the economic order of the eighteenth century as visualized by the early twentieth is being tested by the painstaking labor of sober scholarship. A new picture could be made more accurate, not by sweeping denunciation of the old, but only through putting together the results of intensive investigation of small fields: industries or parts of industries. Work done along these lines covering various phases of the production of textiles or of metals has already been richly rewarding. The association of the University of Manchester with this endeavor and the high standards of scholarship which it has sponsored are admirably maintained in this volume, as might have been expected in view of Mr. Ashton's earlier work on iron and steel in the Industrial Revolution.

The present subject arouses particular interest because of the strategic position of coal with reference to other industries after steam superseded water as a source of power in the factories. Coal might offer a key to many moot problems of the meaning of the period as a whole. The authors, however, are circumspect. They confine themselves strictly to the coal industry itself.

Within their self-imposed limitations, the authors have done a very careful and thorough piece of work. Two aspects of the industry have attracted their chief attention: the technique of production and the social conditions of the workers in the industry. But other phases are not ignored. An introduction treats effectively, if all too briefly, of the coal owners and of the sources of capital in the industry, and later of the scale of the mining operations. Here, as throughout the book, differences between fields in different parts of the country are recognized and the temptation to sweeping generalization is resisted.

Three chapters are devoted to the technique of mining, from the opening of the mine to the raising of the coal to the surface. While there is recognition of the influence of steam pumps, of steam-engines for winding, and of rails in transporting coal, the emphasis is upon continuity of methods. Similarly in the chapters concerning conditions of living among the workers, there is reluctance to admit any profound changes through the century. The authors conclude that the industry experienced nothing within itself which might be

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considered an industrial revolution. Hence there is nothing of outstanding importance to chronicle and there is room to include such subjects as rents and royalties, the supply of coal to London and combinations in the coal trade in a well-rounded study of the whole subject.

The work is based upon wide investigation of sources, largely manuscript, and the records of the industry itself. Governmental sources are used but subordinately (unfortunately perhaps in the omission of customs records for the Newcastle trade). Not only are footnote references plentiful but there are numerous direct quotations in the body of the page. These, together with style that is compact and measured, give a strong sense of immediate contact with the past. At times there is some difficulty in reading, as when, occasionally, technical terms, even of local usage, are employed for some pages before they are explained. Throughout, the authors make the facts speak for themselves. One misses the flash of penetrating suggestions of meaning,-but one possesses the data from which to draw one's own conclusions. It is a work to ponder.

JUDITH BLOW WILLIAMS

WELLESLEY COLLEGE

Les Effets économiques et sociaux de la guerre en Grèce. By ANDRÉ ANDRÉADÈS. Published for the Carnegie Endowment for International Peace by the Presses Universitaires de France, Paris, and the Yale University Press, New Haven, 1928.—322 pp. 35 francs.

The importance of Greece as a key country in the Great War has been strangely overlooked. In view of the unique and important elements which pertained alone to Greece in the World War and its aftermath, the Asia Minor Expedition, the Carnegie Endowment for International Peace has rendered a distinct service in publishing the above volume in the Greek Series. This work, in French, is by Greeks living in Greece, all of whom are highly distinguished in scholastic or public affairs, and in more than one case well qualified in both capacities. There are six contributors to this single volume who write on the following subjects: Professor André Andréadès, "*Les Finances publiques*" and "*La Marine marchande grecque et la guerre*"; Professor A. A. Pallis, "*Les Effets de la guerre sur la population de la Grèce*"; Professor M. B. Simonide, "*L'Économie rurale grecque et la crise de la guerre mondiale*"; Professor D. Kalitsounakis, "*Législation ouvrière et sociale grecque pendant et*

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après la guerre"; Professor Georges Charitakis, "*Le Mouvement industriel en Grèce pendant les années 1915–1925*"; Professor S. Coronis, "*La Guerre et les voies de communication*".

This series of monographs shows vividly the masterful hand of Dr. Andréadès, who was not only intrusted with the organization and preparation of the undertaking but also wrote nearly half of the text. The result is a coöperative work which has coherence and unity. In addition to the chapters on public finance and the merchant marine, Dr. Andréadès handled certain demographic questions and also took over the topics of monetary and foreign exchange due to the inability of his colleague, Professor Varvaressos, to be relieved of arduous consultative duties at the National Bank. It is not too much to say, therefore, that credit for this latest publication is a further tribute to Dr. Andréadès, whose scholarly and prolific writing in the fields of economic history and international political economy have been the more remarkable because of the exacting demands upon his time in conformity with his position as the outstanding economist of a small country.

The first chapter, on public finance, comprises approximately one hundred pages. Its importance is increased by the paucity of data and interpretation in this field. The relatively few non-political publications dealing with Greece are broadly economic rather than financial in character. The fiscal situation in that country merits special treatment because of the Valaoritis law of 1910, the unusual skill of Greek bankers, the International Finance Commission, the remarkable position of the drachma in November, 1918, and its precipitous fall incident to the Graeco-Turkish military conflict. The statistical tables are distinctly useful, and their interpretation is clearly drawn.

Of all the economic agencies in Greece, the merchant marine was the most effective in 1914–18. The vessels, mostly of small tonnage, rendered valiant service in running the gauntlet of the enemy submarines in the entire Mediterranean region. Their losses were unparalleled. The Hellenic merchant fleet numbered 1,358 vessels of 965,000 tons in 1913 as compared with 840 vessels of 295,000 tons in November, 1918. The enormous freight rates charged and substantial profits earned in the transport of commodities to Trieste, Marseilles and Port Said constituted an exceedingly important factor in the public revenues and in maintaining the market value of the drachma.

Population, a vital topic in the Balkans and Eastern Europe, re-

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ceives thoughtful and reasonably unbiased treatment from M. Pallis, whose constructive activities on the Refugee Settlement Commission are recognized. Like all Near Eastern students, he lays the greatest stress upon the ethnographic features and thus minimizes sex, occupational and vital statistics. It is gratifying to note that M. Pallis, in common with his collaborators, has brought the situation to 1926, thereby showing the effects of the startling changes upon a now homogeneous population.

M. Simonide presents a concise survey of rural economics. However, the reviewer wishes that this most important feature of Greek life had been expanded beyond twenty-five pages. Professor Kalitsounakis gives a satisfactory account of labor and social legislation and supplies data relative to cost of living and dwellings which underly the national economy. Professor Charitakis devotes less than twenty pages to industry, but he has dealt with the same topic in a book of nearly two hundred and fifty pages, surveying the industrial and mineral development since the rebirth of Greece a century ago. Professor Coronis contributes a section dealing with transportation and communication. The essentials in the situation are carefully drawn, while the statistics and graphs are timely and of basic value.

While the reviewer would like to have the volume expanded to include separate chapters on education, commerce and war-time organizations, the difficult problem confronting Dr. Andréadès and his collaborators was not so much what to put in as to what to omit. In their selection of topics they have brought to view those fundamental elements which cannot be minimized in the study of Greece's position during a most critical period.

ELIOT G. MEARS

LELAND STANFORD UNIVERSITY

Social Research. By GEORGE A. LUNDBERG. New York, Longmans, Green and Company, 1929.—xi, 380 pp. $3.00.

"It is the central thesis of this book that the great need of the social sciences is the direct collection and analysis of first-hand objective data, instead of reliance on the material of history, philosophy, or on more or less imaginative literature" (p. 170). True to this thesis, Professor Lundberg has given us a succinct treatment of methods for gathering scientifically significant social data. There is no specific treatment of statistical method, a field which the author considers adequately covered at the present time, but if the text may be said to have a bias, it is in the direction of quantitative analysis.

The organization of the materials is not unique. The point of

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departure is a citation of the success of exact scientific methods as applied to the natural sciences. The introductory chapter on the nature of science is conventionally Pearsonian, but it is supplemented by an able statement of the predictability of human behavior and the applicability of quantitative methods to social data. The scientific method is described as a technique devised by man to solve his problems, and is upheld as the most consistently successful procedure yet developed. Subsequently the author concedes that there are many difficulties to be overcome in developing a science of society, but he shows why these obstacles need not be considered insuperable.

In the third chapter Professor Lundberg points out the necessity for a uniform objective terminology in social science, and reveals many shortcomings of our present concepts. He does not lay down a system of concepts, but proposes some principles by which we may eliminate much of the confusion now existing.

Chapters iv–viii are devoted to an orderly, comprehensive statement of the approved methods for gathering data, including sampling, the use of the schedule, interviews and social surveys. Here one finds much to remind him of *Field Work in Social Research*, by F. S. Chapin, from which certain portions are frankly adapted. And by far the finest bit of scientific writing in the text is to be found in chapter viii, where the case method is weighed in the balance and found wanting. Case materials are indeed valuable if properly compiled, but they serve as an intermediary state of scientific data, and not as a basis for sound generalizations. The ultimate objective of the scientific method is the statistical average. Many will disagree with the author's position, but few will deny the consistency of his argument.

The more sophisticated scholar will find the final chapters devoted to the measurements of attitudes and social institutions, and the standardization of social statistics, illuminating. Here we are treated to an exposition of certain devices which have only very recently commanded the attention of students of the quantitative method, and while we are only at the beginning of investigations into social attitudes, the possibilities suggested by Professor Lundberg's critical evaluation are distinctly encouraging.

There is little doubt but that the one issue which will provoke most comment on this book is the emphasis laid upon the ultimate preëminence of the statistical method. The author never for a moment disparages the use of the historical or case methods, but contends that in any scientific investigation the object sought is a gener-

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alization such as can be most precisely and conveniently expressed by a statistical measure. What he refuses to admit is that statistical manipulation is often a clumsy and inadequate mode of analysis. For example, while statistical methods have been used to summarize Healy's case studies of delinquency, the uniformities observed are only very incompletely expressed in statistical terms. Moreover, the analogy cited in chapter viii between the medical practitioner and the social case worker implies the efficacy of statistical generalizations as bases for diagnosis and prescription, but a similarly allowable analogy between social workers and lawyers pleads with equal force the utility of the case method. However, the salutary effect of statistical self-analysis upon case-working agencies is not to be denied.

After reading this text one feels inclined to congratulate Professor Lundberg's students. In every chapter there is evidence of careful, sympathetic workmanship. The appendix lists painstakingly the best references on given topics, the standard sources of statistical data, and the various measuring scales devised for social phenomena. For that large number of students who begin graduate work with a faint conception of the meaning of research it will serve as manual, text and treatise. For teachers who are seeking a concise summary of the recent literature on social research it will prove itself the most satisfactory book available.

W. Wallace Weaver

University of Pennsylvania

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BOOK NOTES

Capitalizing the value to a country with communist conceptions of foreign policy of such irenic movements as represented by the Kellogg Pact, M. Henri Barbusse has given *in extenso* his sponsorship and benediction to an official Soviet compilation collated and edited under the caption *The Soviet Union and Peace* (New York, International Publishers, 1929; xiii, 294 pp. $2.25). The volume consists of a carefully chosen array of documents regarding the attitude of the Soviet government toward different phases of the general problem of peace from 1917 to 1929, to which the ably written, if somewhat overenthusiastic, remarks of M. Barbusse form a fitting introduction. The volume makes a conscious effort to reveal to the English-reading public the essential steps by which the Soviet government initially formulated its policies at the time of the November Revolution, elaborated them during succcessive peace conferences—particularly that of Paris, Russia's exclusion furnishing M. Chicherin the finest of opportunities for an indictment of Allied diplomacy—and matured them into a consistent body of principles. This wider synthesis is illustrated by the official pronouncements of Soviet representatives at Geneva regarding the fundamentals of the disarmament problem, by the official correspondence exchanged with France respecting the Kellogg Pact, and finally, by the citation of the specific provisions of the web system of neutrality and non-aggression treaties which the Soviet Union has woven with its limitrophe neighbors. The official recognition of the interrelationships of the different parts of the disarmament-arbitration-security problem shows that the Soviet government has made no mean progress in the integration of its international policies. While the desire for peace was undoubtedly sincere in the opening days of the November Revolution—to that the series of decrees and appeals of the period is eloquent witness—it was necessary to conceive and develop the formulas which were eventually arrived at before the stand of the Soviet Union could attain consistency and practicality. The treaty formula for security appears to have been realized; that for finding means of liquidation is still in process; the ideal of disarmament, which must rest on reciprocal action, is still far from solution, but the documents do not fail to show the Soviet view-

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point. American readers will find particularly valuable those sections of Part I which define unmistakably the Soviet attitude toward American participation in the interventions at Archangel and Vladivostok. The Soviet version of Bullitt's negotiations and their fruition (pp. 66-69) is also of unusual interest.—MALBONE W. GRAHAM, University of California at Los Angeles.

The second edition of Professor W. W. Willoughby's *The Constitutional Law of the United States* (New York, Baker, Voorhis and Company, 1929; 3 vols., lxvii, xvii, xvi, 2022 pp. $36.00) differs but little from its predecessor. The original edition, even after nineteen years of obsolescence, was with perhaps a single exception the standard treatise on American constitutional law. By the new edition that position is made all the more secure. It is a security, however, that is based upon compilation and exhaustiveness rather than upon critical treatment. For this is assuredly not intended as a critical study. It is essentially consultative. One could hardly conceive of any possible topic or subtopic of American constitutional jurisprudence that is not considered within the covers of these three bulky volumes, yet with few exceptions the consideration given to any particular topic is little more than mere statement, totally devoid of criticism. It is well enough to catalogue the privileges and immunities of federal citizenship. For the elementary student, or the person who merely wishes to refresh his memory, such a procedure is sufficient. But a formal legalism of this character is manifestly inadequate for the student who desires to examine the logic of judicial pronouncements. Those particular decisions, such as *Crandall v. Nevada* and the Slaughter House Cases, in which the court enumerated some of the privileges and immunities of federal citizenship, are undoubtedly open to criticism. Such language as one finds in the latter case to the effect that "The right to peaceably assemble and petition for redress of grievances, the privilege of the writ of *habeas corpus*, are rights of the citizen guaranteed by the Federal Constitution", needs only the formality of statement to show that it is either partially false or else in need of considerable qualification. A sentence such as this raises questions which a treatise of two thousand pages can hardly afford to ignore. So too with the due process clause. If due process as found in the fourteenth amendment includes the requirement that whenever private property is taken for a public use just compensation must be made, why should not due process as found in the fifth amendment include it, and if it does, what becomes of the

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rather antique pronouncement that no portion of the Constitution is to be taken as superfluous? For in the fifth amendment the requirement of just compensation immediately follows the due process clause. The Court has attempted, in part, to answer this difficulty, yet there is hardly a mention of it here. Indeed, the author might have made a far greater contribution had he decreased the amount of quoted material (probably a third of these two thousand pages is taken up by excerpts, mostly judicial) and in the void thus created considered more in detail, and critically, the remaining quotations. And yet, if by criticism one means merely the giving of personal opinion it is probably best that these volumes contain a minimum. It will be difficult for some readers to look upon such decisions as *Coppage v. Kansas* and *Adair v. United States* as being "so far as they went . . . . favorable to the interests of trade unions", and manifestly there will be more than a few individuals who will fail to agree with Professor Willoughby when he says that, "With comparatively few exceptions . . . . the Supreme Court has held a liberal view with regard to the propriety of the police laws which have come before it for examination." Perhaps such qualifying words as "comparatively" and "propriety" save the usefulness, or truthfulness, of the statement. Mention is made of *Lochner v. New York* as being included among the exceptions, but no notice is taken in this connection, to mention only a few, of *Tyson and Brothers v. Banton, Adams v. Tanner,* or *Adkins v. Children's Hospital.* If the prevailing opinion in these cases represents "a liberal view", then the opinion of Mr. Justice Holmes, and he dissented in each of these cases, must be little short of revolutionary. But this does not vitiate the statement earlier alluded to that, for text purposes, these volumes will stand the most careful scrutiny. Beyond that they leave much to be desired. The proofreading is, on the whole, remarkably well done. Yet we discover that the Dartmouth College Case was decided in 1919, and on page 778 we find a series of statements to the effect that, since 1887, the United States has undertaken public ownership and operation of the railroads.—RAYMOND A. LEYDIG, Columbia University.

It is heartening to read *The Social Work of the Churches* (New York, Department of Research and Education of the Federal Council of the Churches of Christ in America, 1930; 244 pp. $1.00), of which F. Ernest Johnson is the editor, for the book makes clear beyond shadow of doubt that organized religion is really geared into the machinery of social organization, that the church at work realisti-

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cally faces social facts and lifts social burdens. Of course Mr. Johnson is a friendly editor, but making all allowances for that, no open-minded critic of the church could read this book and continue to condemn the church as altogether other-worldly. The book is notable for the ground it covers, for its gift of fair and pithy generalization, for its wealth of facts and for its moderation. The first chapter summarizes in brief paragraphs present social trends affecting religion, including modern science, which is naïvely considered (p. 11) "one of the chief assets in the socializing of religious thought and life", changing moral standards, and the changing status of the home, which, to this reviewer's astonishment, "has apparently ceased, in most of our communities, to be the unit of human association" (p. 16). The next chapter deals with church adaptations to changing social conditions and calls for a more intensive study of the religious and social tasks which the church faces, both in city and country. Chapter three begins the piling up of data about the social work of the churches, denomination by denomination, briefly presenting their work and the organizations they have created to accomplish it. It is impressive both by its quantity and by its range. Then follows a report upon the social work of federated church agencies, national, state and local. Social service is judged to be quite adequately emphasized in relation to the other interests of organized Protestantism. But it is concluded (p. 102) that "Philanthropic work directly benefiting unfortunates . . . is highly popular . . . But the effort to unite Protestant influence . . . to induce governmental action . . . is unpopular, and what is done to influence industrial, racial and international sentiment and action still more so." A chapter is given to other religious agencies such as the Y. M. C. A., the Y. W. C. A. and the Church Peace Union, briefly descriptive of the social services they render. There follows a well-arranged summary of social pronouncements by religious bodies—words, but signifying something—and there are also a list of general social agencies and an excellently selected brief bibliography of books dealing with social questions. Mr. Johnson is to be congratulated upon the compilation of a most timely and useful book.—ARTHUR L. SWIFT, JR., Union Theological Seminary.

Dr. James A. Williamson's well-known textbook on the history of the British Empire, published in 1922, has remained the most satisfactory manual available for the history of the Old Empire, but the author's treatment of the period since the American Revolution, to which he devoted little more than a quarter of the book, was some-

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what sketchy and superficial—at least in comparison with what preceded. A second and enlarged edition of *A Short History of British Expansion* (London, Macmillan and Co., 1930; 2 vols., xx, 470; xv, 315 pp. $12.00) has now appeared in two volumes. Volume I is a reprint of the first four of the five parts of the original work. Volume II, which is divided into two parts, is a revision and expansion of Part V. It contains seventeen chapters, in place of the former eight, and about three-quarters of the text is new. The book as a whole is decidedly better balanced than in the first edition, and it includes a large amount of additional information. It may be regretted, however, that Dr. Williamson has not felt under greater obligation to bring his narrative up to date. He tells us nothing of the course of events in India during the last ten years, nothing of important recent developments in the dependent empire, and scarcely anything about the internal history of the Dominions since the war.—R. L. SCHUYLER.

Ordinarily, when one chances upon a volume by a Central American concerning his own country, one expects to find a work that is extravagant in partisanships and careless of facts, an all too obvious bit of propagandism. Occasionally one is pleasantly surprised by a really serious-minded volume of sound scholarship. Such a work is *El Autócrata: Ensayo político-social*, by Carlos Wyld Ospina (Guatemala City, Tipografía Sánchez y De Guise, 1929; 272 pp.). It is a remarkable essay on the dictator, traced through the history of Guatemala, with especial emphasis, however, on Barrios and Estrada Cabrera. Both of these men the author weighs in the balance and finds wanting. Assuredly this is no surprise in the case of the latter, but Barrios has so often been depicted by his partisans as the quintessence of liberalism that it comes as something of a shock to learn that his government was "the most terrible autocracy that Guatemala has endured" (p. 41), responsible, too, for the beginnings of corruption on a great scale. These statements are supported by the introduction of contemporary evidence. The story of Estrada Cabrera, which occupies the greater part of the book (pp. 87-245), is the most graphic account this reviewer has seen, yet always in measured tones, with a touch of philosophy. It is a natural presumption that this volume must be an anti-Liberal, pro-Conservative pamphlet, despite the author's disclaimer of partisanship. Clearly the author is not enamoured of the Liberal politicians in this country's history, but one finds nothing like approval of the Conservative party, which is referred to as moribund at the present time. To this re-

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viewer, at least, the book seemed a sincere and sound as well as brilliant piece of work. Being an essay, it does not pretend to cover the history in detail, assuming that the main facts are known to the reader. It is thoughtful and very well written, not given to extravagance. The student of Hispanic-American politics and history should find it of great value, not only for Guatemala, but also for the many countries in the republics below the Rio Grande which have been afflicted, or still are, by recurring dictatorships. For the story of Guatemala is by no means unique.—CHARLES E. CHAPMAN, University of California.

Carlos Martins' *Uma Politica de immigraçao* (Rio de Janeiro, 1929; 162 pp.) is the first systematic and thorough treatment of the immigration problem in Portuguese. It is not a systematic handbook in the German sense, nor a thorough scientific study, but rather a collection of notes and studies of treaties by an active government employee. Primarily it is a discussion of national and international migration legislation, with some consideration of economic factors. The work is divided into two parts. The first, entitled "*Evoluçao de phenomeno migratorio*", begins with an introduction treating of post-war developments, and is carried out in typically French style. The nineteenth century was the age of free migration; modern times have reverted to an earlier example, and here the great free North American republic has taken the initiative, with its laws of 1917 and 1924 and its quota system. Restrictions exist on both sides: in some countries immigration is the problem, in others (e. g. Italy) it is emigration. The author gives a thorough description of the two international conferences (Rome, 1924, and Havana, 1928) which took up the regulation of these questions; and here he apparently tells tales out of school, in picturing the atmosphere of distrust between immigration and emigration countries, as well as the constant collisions and jealousies of the International Labour office in Geneva. Authorities are vested with *right of discretion* in some countries, and in others have power to stop immigration altogether. Classifications are made according to various categories, in which social and racial qualities are naturally of prime importance. On the other hand, new countries practise subvention policies and create central organizations in the interest of increase of the population. It is clear that this unorganized condition calls for international and governmental influence. The second part of the book endeavors to establish a concrete policy, and is called "*Uma Politica de immigraçao*". Free individual emigration has ceased: "In modern times social and eco-

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nomic reasons repudiate a spontaneous, individual and free emigration as dangerous" (p. 103). The author emphasizes the absolute necessity of adjusting the policies and laws of emigration and immigration countries, so far as possible, to the end of providing that the emigrant be only *transplanted*. He has constructive suggestions in this regard, involving greater activity on the part of state employees and a systematic policy of selective immigration. This latter unavoidably occasions controversies, which can be dealt with only by international agreements. The author realizes that the race in Brazil is still in the making (". . . therefore no uniform Brazilian type exists", p. 119). Accordingly we must approve a systematic control upon the formation of the race, which for historical reasons is particularly important in Brazil. But the measures he recommends are shocking; nor do I believe that his demand for suppression of foreign schools in colonies (p. 144) is in harmony with a free and liberal constitution. He does well, however, to insist that immigrants must be taught to adapt themselves to local conditions. The author overlooks certain political problems created by foreign oases or "states within the State". The importance of this factor was greatly exaggerated during the war; but it cannot be denied that every state must be prepared to reckon with it. — J. F. NORMANO, Cambridge, Mass.

An epoch-making event, not only in church history but in the history of European enterprise overseas, was the organization by Pope Gregory XV in 1622 of the Congregation de Propaganda Fide, charged with the oversight of Catholic missions. The story of the gradual expansion of this institution from its small beginnings three centuries ago to its present impressive proportions can doubtless be adequately written only after the publication of monographic studies dealing with special aspects of the subject, such as R. Corrigan's *Die Kongregation De Propaganda Fide und Ihre Tätigkeit in Nord-Amerika* (Munich, E. Joergen, 1928; 183 pp.). The scope of this volume is more limited than the title indicates. What the author has undertaken here is to explain the problems, policies and procedure of the Propaganda, during the first century of its existence, with special reference to three missionary fields—New France, the English colony of Maryland and the French West Indies. In these comparatively young colonies, the Congregation was less handicapped than in the older Portuguese and Spanish dependencies by vested interests and established policies—whether of the political authorities or of the missionary orders. Even under relatively favorable condi-

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tions, the problems of such a supervisory body were difficult enough. Ecclesiastical officials at Rome, like contemporary administrators in London or Paris, suffered from the lack of adequate information about conditions in remote parts of the world. The Congregation was often confronted with the alternative of acting, as at the time of Lord Baltimore's difficulties with the Jésuits, without sufficient knowledge of the local situation; or, on the other hand, risking the inconvenience and friction resulting from long delays in reaching decisions. In this respect the Propaganda was at a distinct disadvantage as compared with the more experienced missionary orders, notably the Jesuits. The author's opinion is that actual missionary work in North America would, so far as the seventeenth century is concerned, have proceeded much as it did if the new Congregation had not been instituted; the missionary orders most effective in such work neither required nor received much direction from Rome (pp. 174-75). Before the end of this period, however, the Propaganda was measurably successful in defining and defending its jurisdiction, whether in relation to the religious orders or to the Gallican policies of the French Crown. This result, not achieved without considerable friction, cleared the way for more substantial and far-reaching influence in the years to come. The author has used to a large extent archive material, notably the archives of the Propaganda itself. Numerous excerpts from Latin documents, in the text as well as in the footnotes, do not make for easy reading; but the serious student will find in this modest volume interesting sidelights on church and state relations, as well as other little known phases of American church history.—EVARTS B. GREENE.

Investment Trusts: American Experience, by W. H. Steiner (New York, Adelphi Company, 1929; xiii, 325 pp. $3.00), in spite of its title, is by no means limited to American experience, but presents constant comparison with British practice. It is in fact a comprehensive treatment of investment trusts, well planned and thoughtfully carried out. The book is based not only on a careful examination of the sources available in print, but also on much personal conference with investment trust managers. It abounds with information on practice which could not be easily obtained elsewhere. Professor Steiner wrote with such caution and perspicacity that, though the book appeared well before the market break last fall, it contains nothing to make him wish he had delayed publication. He might, however, have been a little more emphatic in calling attention to the distinction between what is essentially a speculative

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pool and what is genuinely a plan of investment. He seems to be more hopeful than the reviewer for the investment trust as a solution of the small investor's problem. Matters of opinion, however, are of less importance in a book like this than the presentation of facts from which the reader may form his own opinions. After presenting the fundamental characteristics of investment trusts it goes on with a historical sketch of their growth in England and Scotland, and follows with the American development. It then takes up in several chapters the various types of investment trusts and the management problems in each, and closes with a chapter on possible external regulation, governmental and otherwise. Chapter vii on "Income and Its Distribution" is an especially happy handling of the subject. Speaking of the British trusts, Professor Steiner remarks that "The administration expense averages one-half of one per cent per annum on the total paid in capital". It is one of the unfavorable aspects of the American trusts that, in addition to initial costs, management costs run substantially higher. Steiner does not make the comparison with New York mortgage guarantee companies, which for a compensation of one-half of one per cent not only manage the investment but through their guarantee add the protection of their capital and surplus. Further, in this matter of compensation for management, he says: "Compensation for investment service may be stated either as a percentage of earnings or as a percentage of capital. The former seems preferable, in that it proportions reward to performance." This is a dubious preference. It puts pressure on the management to take risks to increase earnings, risks in which the manager's loss is limited but the investor's is not. Exceptionally few errors were caught in the reading. Professor Steiner, who is not a lawyer, but an economist, slipped, as eminent counsel have, on the New York rule against perpetuities. Steiner says "the trust under the rule against perpetuities has its life limited in New York to a life or lives in being and twenty-one years thereafter". This is the common-law rule and not the New York rule of two lives in being. In view of the right given the participant to withdraw his participation, and the theoretical possibility of all joining to withdraw and so ending the trust, counsel have felt that the New York rule could be chanced.—HASTINGS LYON, Columbia University.

The World Peace Foundation has added to its series a very useful work—*The Pacific Area: An International Survey* (Boston, World Peace Foundation Pamphlets, vol. XII, no. 3, 1929; vi, 224 pp. $2.00) by George H. Blakeslee. In the past Professor Blakeslee,

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both as author and editor, has produced several excellent volumes on developments in the Far East. This, his latest work, was designed as a brief survey of the problems to be discussed at the Kyoto session of the Institute of Pacific Relations. The purpose of the book is thus stated (p. 1): "Giving only enough historical background to make existing conditions understandable, it attempts to set forth the factors which are today most important in the relations of the leading countries [of the Pacific area]; the treaties which bind them, their announced aims and policies, their agreements for common action, their conflicts of interest, and the issues remaining to be solved." This intention has been admirably fulfilled. Indeed, both the specialist in Far Eastern affairs and that familiar figure, the general reader, are indebted to Professor Blakeslee for having brought together in compact form an accurate and concise account of developments in the Pacific region in the past few years and a well-chosen body of illustrative documentary material. Despite the highly controversial nature of the subjects with which it deals, the book is remarkably objective and dispassionate. In presenting conflicting attitudes, the author has made liberal use of quotations from diplomatic communications, governmental pronouncements, and statements by persons in authority. The longest and most important chapters deal with China's campaign for treaty revision and the Manchurian situation. The policy of each of the principal powers toward China, Japan's foreign relations, and the British Dominions in the Pacific are more briefly treated. The concluding chapter on agreements for the preservation of peace in the Pacific is especially pertinent in the light of the subsequent intensification of the dispute over the Chinese Eastern Railway. The book is equipped with adequate footnote references, an index and a good map of the Manchurian railways. By its impartiality, accuracy and brevity it is well suited for use as a text on international relations in the Pacific area in the period prior to September, 1929, the date of its composition.—MERIBETH E. CAMERON, Reed College.

Social Aspects of Industry: A Survey of Labor Problems and Causes of Industrial Unrest, by S. Howard Patterson (New York, McGraw-Hill Book Company, Inc., 1929; 41, vi, 539 pp. $3.00), meets the need of a post-war survey that shall take account of the immense amount of research that has been devoted to labor problems during the past twenty years. The "collateral readings" and "references" appended to each chapter reveal the wide scope from which the author has derived his materials. These and the "questions for

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discussion" and the "topics for investigation", together with the admirable analysis in the text, make the book an introduction to modern research methods of class instruction. It can here be realized how it is that the labor problem calls for an understanding of all economic and political problems. In fact the book might well be made the text for a year's introductory course in economics and politics for freshmen or sophomores. Even agricultural economists will find that the coöperative movement, collective bargaining, and governmental aid to farmers, at present so prominent, are but a repetition of many problems of unrest and reconstruction set forth by Patterson in the labor field. The first two hundred pages furnish the fundamentals on which succeeding chapters are constructed. They cover concisely, yet with ample illustration, existing conditions, theories and statistics of social unrest, new ideals, private property, freedom, social control, immigration, productivity, equality and inequality of opportunity, poverty and standards of living, and lead the author to accept productivity and bargaining power as the clues to what follows. Then the special treatment of problems is divided into three parts, legislation, collective bargaining and the liberal employer. The problem of legislation is "human conservation," and has to do with exploitation, especially of women and children, the long day, fatigue, leisure, safety, financial compensation including the many forms of so-called social insurance, and the rationalization of industry as a problem of unemployment. Collective bargaining deals with the legal status of labor organizations and employers' associations, their origin and strength, and the various aspects of conflict, arbitration and conciliation. The "liberal employer" is the one who has passed from scientific management to personnel administration, employee representation and profit-sharing of various kinds. Finally the chapters on Programs of Reconstruction deal briefly with the coöperative movement, socialism, syndicalism and the problems of progress and adjustment.—JOHN R. COMMONS, University of Wisconsin.

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